

Page 1
May 8, 2019

A. Williams
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SIBYL COLON,

Plaintiff(s), Case No.
16-04540

-against-
THE CITY OF NEW YORK, NEW YORK CITY HOUSING
AUTHORITY, NEW YORK CITY COUNCIL SPEAKER MELISSA
MARK-VIVERITO, MICHAEL KELLY and BRIAN CLARKE,
Defendant(s).

----- x
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
ALLISON WILLIAMS,

Plaintiff(s), Case No.
16-CV-08193

-against-
THE CITY OF NEW YORK, NEW YORK CITY HOUSING
AUTHORITY, NEW YORK CITY COUNCIL SPEAKER MELISSA
MARK-VIVERITO, MICHAEL KELLY and BRIAN CLARKE,
Defendant(s).

----- x
DEPOSITION of the Plaintiff, ALLISON
WILLIAMS, taken by the Defendants, held at the
offices of New York City Housing Authority, 250
Broadway, New York, New York, on May 8th, 2019, at
10:00 a.m., before a Notary Public of the State of
New York.

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1 A. Williams
2 A P P E A R A N C E S:
3

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25 ASSISTANT CORPORATION COUNSEL

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27 x*****
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31

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1 A. Williams

2 Q You wanted to work for The City?

3 A Yes.

4 Q Am I correct that you retired from
5 NYCHA May 1st, 2017?

6 A You are correct.

7 Q You were working at Mill Brook
8 Houses at the time you retired from NYCHA,
9 right?

10 A I was.

11 Q Were you ever transferred from Mill
12 Brook Houses to another development?

13 A No.

14 Q Do you recall the year you started
15 to work for NYCHA?

16 A '84, 1984.

17 Q What was the first position you
18 held?

19 A Teller.

20 Q You had Civil Service status in
21 that title?

22 A Yes.

23 Q What does it mean to have Civil
24 Service status in the title?

25 MR. FLORESTAL: Objection.

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1 A. Williams

2 A Two years up to '99.

3 Q Then what happened?

4 A I became a manager.

5 Q Did you have Civil Service status
6 in that title?

7 A Not when I was there, but I took
8 the test then.

9 Q Initially you were provisional?

10 A Yes.

11 Q You took a test and then had Civil
12 Service status?

13 A Yes.

14 Q You were Housing Manager in '99?

15 A Yes.

16 Q And you were Housing Manager until
17 you retired?

18 A Yes.

19 Q Where did you work as a Housing
20 Manager?

21 A Sack Wern.

22 Q Where is that?

23 A In the Bronx. I worked there from
24 '99 to 2000, I think. I don't remember.

25 Q Okay.

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1 A. Williams

2 A I went to Forest Houses. I don't
3 know when I went there. Okay, I went to
4 Forest Houses, but I don't know what year,
5 but I was there until 2006.

6 Q You went to Mill Brook in 2006?

7 A Yes.

8 Q Why did you leave Sack Wern and go
9 to Mill Brook?

10 A You have no choice, they tell you
11 to go.

12 Q Is that administrative?

13 A Transfer is. I think you might
14 know better. I assume -- I am not privileged
15 to that. They tell you report there and work
16 there and you get up, pack your stuff and go
17 to the next place.

18 Q NYCHA transfers you to the other
19 development?

20 A Yes.

21 Q You don't know why?

22 A No.

23 Q Did you ever ask why?

24 A No. That's what they do, they move
25 the managers around after a while.

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1 A. Williams

2 NYCHA transferred you?

3 A Yes.

4 Q Does NYCHA need to obtain the
5 consent of a Housing Manager before NYCHA can
6 transfer the manager?

7 A No.

8 MR. FLORESTAL: Objection.

9 You may answer.

10 THE WITNESS: No.

11 Q When you were Housing Manager, your
12 union was Local 237?

13 A Yes.

14 Q Do you know whether the Collective
15 Bargaining Agreement between NYCHA and 237
16 addresses involuntary transfer of Housing
17 Managers?

18 A I don't know.

19 Q Is it your understanding that a
20 Housing Manager has to be terminated from
21 NYCHA employment before being transferred to
22 another development?

23 MR. FLORESTAL: Objection.

24 You may answer if you know.

25 A I don't know.

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1 A. Williams

2 A Right.

3 Q Have you ever seen any NYCHA policy
4 about transfers?

5 A Not for managers.

6 Q When a manager is transferred to
7 another development, as you were, the manager
8 does not lose any seniority?

9 A No.

10 Q When a Housing Manager transfers to
11 another development, the salary remains the
12 same, right?

13 MR. FLORESTAL: Objection.

14 Q Go ahead.

15 A Yes.

16 Q When you transferred, you said from
17 Sack Wern to Forest to Mill Brook --

18 A Yes.

19 Q -- your seniority stayed the same?

20 A Yes.

21 Q Your salary stayed the same?

22 A Yes.

23 Q Right?

24 A Yes.

25 Q What is OPMOM?

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1 A. Williams

2 A Yes.

3 Q Am I correct Mill Brook was one of
4 the original eighteen developments in the
5 OPMOM pilot program?

6 MR. FLORESTAL: Objection.

7 Answer if you know.

8 A Yes.

9 Q Did you request that Mill Brook
10 become part of OPMOM?

11 A No.

12 Q Do you know how it became a part of
13 OPMOM?

14 A No.

15 Q Did you ask anyone?

16 A No.

17 Q You have no idea why Mill Brook was
18 selected?

19 MR. FLORESTAL: Objection. Asked
20 and answered.

21 MS. LIPPMAN: That is not a valid
22 objection. She's doing fine.

23 MR. FLORESTAL: She answered three
24 times.

25 A No.

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1 A. Williams

2 Q You have no idea?

3 MR. FLORESTAL: Objection.

4 A No.

5 Q Did you have an understanding at
6 the time of how developments were to be
7 selected?

8 A My understanding was they just
9 wanted us in a group; like the developments
10 from the Bronx, we were all centered around
11 each other.

12 Q Was every development in the Bronx
13 part of OPMOM?

14 A Not at the beginning. There were
15 just five of us.

16 Q What were the others, if you
17 remember?

18 A Mill Brook, Melrose, Mott Haven,
19 Mitchell and Patterson.

20 Q How were developments run at NYCHA
21 outside of OPMOM?

22 A You're told what to do and you do
23 it.

24 Q How did OPMOM differ from that?

25 MR. FLORESTAL: Objection.

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1 A. Williams

2 Q Go ahead.

3 A It was supposed to be that I made
4 the decisions.

5 Q The manager had more control?

6 A Supposedly, yes.

7 Q It was supposed to be less
8 centralized?

9 A Yes.

10 Q The OPMOM model gave more control
11 to the development managers in terms of
12 staffing and budget?

13 A Yes.

14 Q Wasn't it supposed to be the
15 manager's responsibility to determine his or
16 her development staffing needs?

17 A Yes.

18 MS. LIPPMAN: Mark this as B.

19 (Whereupon a document was marked
20 Defendant's Exhibit B for identification
21 as of this date.)

22 Q Have you ever seen this document
23 before marked just now as Exhibit B?

24 A I don't remember.

25 Q This was a document produced by

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May 8, 2019

1 A. Williams

2 your attorney in this litigation.

3 Look at the bottom of the page
4 where it says Project Participants.

5 Do you see that?

6 A Yes.

7 Q Mill Brook is listed at the bottom.

8 Do you see that?

9 A Yes.

10 Q Mill Brook was one of the original
11 eighteen participants in the pilot program?

12 A Yes.

13 Q "Timing-pilot pick up January 1st,
14 2015."

15 Do you see that in the middle of
16 the page?

17 A Yes.

18 Q Look at where it says Project Goals
19 on the left. There is a heading Optimize
20 Organizational Structure and Staffing.

21 Do you see that?

22 A Yes.

23 Q "Staffing levels set by property
24 manager within constraints of development
25 budget," and under that it says:

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1 A. Williams
2 "Development staff to meet property needs."
3 Do you see that?
4 A Yes.
5 Q Under the OPMOM program, it was
6 your responsibility as manager to determine
7 the staffing needs within the constraints of
8 your budget?
9 A Yes.
10 Q Let look at the lower right corner
11 where it says: "To optimize property budget
12 and central cost."
13 A Yes.
14 Q Bottom up, budgeting process?
15 A Yes.
16 Q Do you know what that means?
17 A I don't remember.
18 Q Did you ever ask anyone about that?
19 A Maybe, but I don't remember.
20 Q Did you have OPMOM budget training
21 in November of 2014?
22 A Yes.
23 Q Where it says "budget tailoring to
24 each development's needs," do you see that?
25 A Yes.

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1 A. Williams

2 Q Do you know what that means?

3 A I don't recall.

4 Q When you had the budget training in
5 November of 2014, were you trained on how the
6 budget would work within your development?

7 MR. FLORESTAL: Objection.

8 A I don't recall.

9 Q Do you remember going to the
10 training?

11 A Yes, I remember in 2014 going to
12 the training.

13 Q Am I correct that Kevin Norman was
14 running OPMOM when it started in January of
15 2015?

16 A No.

17 Q Kevin Norman was not running it
18 then?

19 A No.

20 Q Who was running it?

21 A Cecil House.

22 Q Cecil House?

23 A And Kevin came in after. He
24 retired or resigned and Kevin took over.

25 Q Cecil House was the general

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1 A. Williams

2 Q I asked if you understood Spanish
3 in Spanish and you answered no.

4 A No.

5 Q You do not speak Spanish?

6 A No.

7 Q Were you aware, in the spring of
8 2015, the speaker's office received
9 complaints you had been disrespectful to
10 Spanish speaking tenants?

11 A Not at all.

12 Q Were you aware the speaker's office
13 received complaints during a tenant meeting
14 when you said you did not want to hear any
15 "Muñ Muñ" (phonetic) talk from the
16 residents?

17 Were you aware of that?

18 A No.

19 Q There were some residents who felt
20 you were disrespectful, so doesn't it make
21 sense they would go to the speaker's office
22 instead of to you?

23 A Yes, but would it make sense that
24 the speaker's office would call me and say
25 you know what, there was someone who said

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1 A. Williams
2 such and such and if you said that, tone it
3 down? I don't talk to people like that. I
4 don't go home to a mansion in the sky. I
5 respect everyone. If you're wealthy and pay
6 a thousand dollars for something or if you
7 pay a dollar for something, you are the same
8 person and you deserve the same respect.
9 Okay?

10 I am not going to go for that. I
11 was there for eleven years and never got a
12 complaint. I am not going to change
13 overnight, no. Now all of a sudden in 2015 I
14 am getting complaints? You're getting
15 complaints because I am disrespectful?

16 Don't you know how many meetings I
17 went to and how many Spanish people showed up
18 at the meetings, but in 2015 all of a sudden
19 I am disrespectful to them?

20 Q You said you were there for eleven
21 years?

22 A Yes.

23 Q And you never got complaints?

24 A No. And when you get a lot of
25 complaints, you know, your boss comes down

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1 A. Williams

2 Q Do you recall what percent of Mill
3 Brook tenants had limited English proficiency
4 in 2015?

5 A I don't remember.

6 Q More or less than half?

7 A I don't know.

8 Q Do you know if the annual
9 recertification of income asks if the head of
10 the household could read and understand
11 documents in English?

12 Do you know if it was on there?

13 A I don't know.

14 Q You don't remember?

15 A I don't remember.

16 Q You attended a meeting on July 30,
17 2015 at former Speaker Mark-Viverito's
18 office?

19 A Yes.

20 Q How were you notified of the
21 meeting?

22 A Email.

23 Q Who was the email from?

24 A I don't know.

25 Q When were you sent the email?

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1 A. Williams

2 A I don't know.

3 Q Were you told anything about the
4 reason for the meeting?

5 A No.

6 Q Did you ask anyone the reason for
7 the meeting?

8 A No.

9 Q Is there a reason you did not ask?

10 A Normally -- well, first of all, you
11 do not go to the meetings when you have
12 elected officials, so I was okay, I will go
13 there, I am not doing anything wrong. There
14 is no reason for me to care why she's calling
15 me up to the office. Maybe she wants to do
16 something more.

17 Q I thought you said it was kind of
18 unusual to get that kind of request?

19 A Yes, because we got requests from
20 other officials but didn't usually go to the
21 meetings, so I was curious why they wanted us
22 to go to this one, but I did not ask.

23 Q You had no idea?

24 A No idea.

25 Q Did you discuss the meeting with

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1 A. Williams

2 Q You walked up the block yourself?

3 A Yes.

4 Q Was anyone else there when you
5 arrived at the former speaker's office for
6 the meeting?

7 A I don't remember who was there at
8 the time, but there were probably people
9 there.

10 Q Look at paragraph 16 of the Amended
11 Complaint, Defendant's A.

12 A Paragraph 16?

13 Q Yes, ma'am, on page 4.

14 A Okay.

15 Q Read it to yourself.

16 A Okay.

17 Q Is that paragraph correct?

18 A Yes, those people were there.

19 Q Was there anyone else there besides
20 the people listed in the paragraph?

21 A Gloria was there. She's there.

22 Who else was there?

23 Q Was Marcella Medina there?

24 A Who is that?

25 Q Do you know who Marcella Medina is?

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1 A. Williams

2 A No.

3 Q Okay.

4 A There was someone there, but I
5 don't know who they were. I think it was a
6 man, but I am not sure.

7 Q Did he work for NYCHA?

8 A I don't know. Once I got there I
9 started focusing. I realized something was
10 wrong. I started to focus on what was
11 actually going on.

12 Q Who is the unknown Hispanic man on
13 Counsel Speaker's staff?

14 Who is that?

15 A I don't know.

16 MR. FLORESTAL: Objection.

17 Q How do you know he was Hispanic?

18 A Good Lord.

19 Q How did you know?

20 A I don't know.

21 Q Do you know why it says unknown
22 Hispanic man?

23 MR. FLORESTAL: Objection.

24 A I don't know.

25 Q You don't know if that is true or

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1 A. Williams

2 not?

3 MR. FLORESTAL: Objection.

4 A No.

5 Q Does Pamela Jamerson ring a bell?

6 MR. FLORESTAL: Objection.

7 Q Is that the same person?

8 A Prensella (phonetic)?

9 MR. FLORESTAL: Is that a mistake?

10 MS. LIPPMAN: Note my objection.

11 MR. FLORESTAL: I am allowed to ask
12 her a question.

13 MS. LIPPMAN: What you're doing is
14 totally improper.

15 MR. FLORESTAL: Off the record.

16 (Whereupon a discussion was held
17 off the record.)

18 MR. FLORESTAL: Back on the record.

19 Q Pamela should really be Prensella?

20 A As far as I know, yes.

21 Q Who is that?

22 A The TA president.

23 Q Did you know her?

24 A Yes.

25 Q She had been the TA president for a

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1 A. Williams

2 while?

3 A Yes.

4 Q Her name was Prensella?

5 A Yes.

6 Q Was there anyone at the meeting you
7 had not met?

8 A I focused on some people because I
9 knew something was not right and it dawned on
10 me something is not right. When I went in I
11 knew I did not do anything wrong.

12 Q I want to get you out of here at
13 5 o'clock if I can, so was there anyone at
14 the meeting you had not met before?

15 A I don't remember.

16 Q Were there any totally unfamiliar
17 faces?

18 A I don't remember.

19 Q Do you remember if you introduced
20 yourself to anyone?

21 A We introduced ourselves going
22 around the room.

23 Q Okay.

24 A But I was not focused on that, I
25 was focused on I knew something was wrong.

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1 A. Williams

2 That is what I focused on.

3 Q Did anyone come up to you and
4 introduce themselves?

5 A We just went around the table and I
6 said I am Allison Williams from Mill Brook
7 Houses.

8 Q You came in and sat down and you
9 all introduced yourselves?

10 A Yes.

11 Q Brian Clarke was on the phone?

12 A I believe.

13 Q Did anyone else enter the meeting
14 after you arrived?

15 A I don't remember.

16 Q Do you remember if everyone was
17 there when you got there?

18 A I don't remember.

19 Q Look at paragraph 17 of the Amended
20 Complaint.

21 A Okay.

22 Q Are you with me?

23 A Yes.

24 Q The council speaker began the
25 meaning by inquiring: "How are you handling

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1 A. Williams.
2 your Spanish speaking residents at Mill Brook
3 Houses?"

4 Is that correct?

5 A Yes.

6 Q Did she say anything else at that
7 specific moment or just how are you handling
8 your Spanish speaking residents at Mill Brook
9 and Mr. Artis answering?

10 A I recall answering. I think I was
11 in shock, to be perfectly honest with you,
12 and certain things happened. I said we use
13 the language bank.

14 Q What happened next?

15 A I knew something was terribly
16 wrong.

17 Q Just answer the question.

18 A No, because answering the question
19 is not giving you exactly what happened and
20 why I cannot answer the question. I believe
21 I was in shock.

22 Q In paragraph 18 it says: "James
23 Artis replied that they followed NYCHA's
24 written policy which stipulates that they
25 utilize a language bank containing NYCHA

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1 A. Williams
2 certified translators to deal with all
3 non-English speaking residents."
4 Did he mention the language bank
5 first?
6 A I said we use the language bank and
7 maybe he repeated it in the Housing terms.
8 Q You are getting at what I am
9 getting at.
10 So the council speaker said how are
11 you handling your Spanish speaking residents
12 at Mill Brook and then you jump in and
13 mention the language bank?
14 A She was talking to me and I said we
15 use the language bank.
16 Q Paragraph 19, look at that.
17 A Okay.
18 Q It says: "The council speaker
19 exclaimed, while slamming both hands on the
20 table: 'That's unacceptable.'"
21 Go to paragraph 20: "The council
22 speaker proceeded to state that she was very
23 unhappy with the management of the Mill Brook
24 Houses and wanted to replace the current
25 manager with a 'Spanish manager.'"

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1 A. Williams
2 Do you see that?
3 A Yes.
4 Q Are those two paragraphs correct?
5 A Yes.
6 Q That is what you said?
7 A Yes.
8 Q Am I correct you interpret the word
9 "Spanish" as meaning Hispanic or Latino?
10 A Yes.
11 Q The word "Spanish" equates to you
12 to ethnicity?
13 A Yes.
14 Q Right?
15 A In this instance.
16 Q Doesn't the word "Spanish" indicate
17 a language?
18 MR. FLORESTAL: Objection.
19 Q Ma'am?
20 A Just wait a second.
21 Q You cannot consult with your
22 attorney. There is an open question.
23 MR. FLORESTAL: I can object, and I
24 do object.
25 Q It is not a privilege question, so.

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1 A. Williams

2 you need to answer.

3 A I don't know.

4 Q Looking again at paragraph 17 where
5 you are asked how are you handling your
6 Spanish speaking residents at Mill Brook
7 Houses --

8 A Yes.

9 Q -- Spanish is a language; isn't it?

10 MR. FLORESTAL: Objection.

11 A I don't know.

12 Q Well, what does Spanish speaking
13 mean?

14 A At that point you said Spanish
15 speaking and that is different than Spanish.
16 Some people can be Asian and speak Spanish,
17 so to define she's from Spain or Puerto Rico,
18 she's Spanish. They may consider it as not a
19 language, but you said Spanish speaking and
20 that is different.

21 Q Are Spanish and Spanish speaking
22 the same thing?

23 A No.

24 Q Why not?

25 A Spanish speaking means you're

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1 A. Williams

2 speaking it. Spanish means like if I perm my
3 hair and the men start to speak Spanish to me

4 --

5 Q I did not understand one word of
6 what you just said. You turned your head
7 away and looked at your attorney. Neither I
8 nor the court reporter could hear your
9 answer, so please slow down and talk to me.

10 A I had residents come into my office
11 when my hair is permed, and upon walking into
12 my office, and I am talking about a full
13 face, and immediately start to speak in
14 Spanish. The term I use is speaking Spanish,
15 they are speaking Spanish to me, so I say I
16 am not Spanish. They say you look Dominican.
17 I said no, I am not, so don't speak to me in
18 Spanish.

19 Spanish speaking and Spanish are
20 two different things. Someone can say she's
21 Spanish, but you don't know what she is. You
22 figure she's some sort of Latino person or
23 now you have some black people that speak
24 Spanish, so you say no, she is not Spanish,
25 she just speaks Spanish.

1 A. Williams

2 The word "speaks" to me makes all
3 of the difference in the world.

4 Q Are there black people that
5 self-identify as Latino or Spanish, do you
6 know?

A I don't know. I do not.

8 Q Have you ever been to Central
9 America or South America or the Caribbean?

10 A Not to Central America or South
11 America. I have friends on the block who are
12 black but Spanish speaking.

13 Q Do you think you can self-identify
14 for every black person what they consider
15 themselves?

16 A . I am just telling you what I think
17 when you asked me about Spanish speaking. I
18 don't care about everyone. You asked me if
19 there was a difference between Spanish and
20 Spanish speaking and this is what Allison
21 Williams thinks, and I am saying for her
22 there is a difference between Spanish and
23 Spanish speaking.

Q What did the speaker mean?

25 A I don't know.

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1. A. Williams

2. A They're Spanish, but not Spanish
3 speaking. They could be Spanish, but not
4 Spanish speaking.

5. Q What I'm trying to get to is this

6. --

7. A You keep asking me the same thing.

8. Q -- to you, someone could be
9 Hispanic and not speak Spanish and maybe
10 they're Spanish and maybe they're not; is
11 that right?

12. A Could be. I don't know. You could
13 speak Spanish and I could say you're Spanish
14 speaking, but you don't look Spanish to me.
15 I am going by what Allison William thinks.

16. Q I have Spanish ancestry, so could I
17 be a Spanish manager?

18. A I don't know.

19. Q Why not?

20. A She wanted a Spanish manager who
21 speaks Spanish, so just stop playing. She
22 wanted a Spanish manager who speaks Spanish,
23 but she just said Spanish. If I spoke
24 Spanish I don't know if she would have been
25 happy with that.

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1 A. Williams

2 Q Did anyone say anything else?

3 A Not that I recall.

4 Q Did you say anything else?

5 A To the speaker?

6 Q During the meeting.

7 A Yes. She said how do I deal with
8 the tenants.

9 Q After that?

10 A I said language bank, and she said
11 that was not acceptable, then I said I call
12 someone from downstairs, an employee, to come
13 up and translate for me, and she said that
14 was not acceptable.

15 What else did I have? There was
16 something else. There was all of the tools
17 the Authority gives us, she said that that
18 was not acceptable. She said you go to talk
19 to someone downstairs? I said no. I called
20 downstairs. If the super is there or if Raf
21 is there, I call.

22 Q Who is Raf?

23 A The superintendent.

24 Q Okay.

25 A And Mitchell is downstairs, the

1 A. Williams
2 supervisor of caretakers, and I ask him to
3 come over and translate for me because the
4 language bank for Spanish is usually very
5 busy and they put you on hold forever, and I
6 did not feel it was fair to the tenants
7 having them sit here. They say we will call
8 you back, but you could be waiting and
9 waiting and waiting and waiting and the
10 tenant is just sitting there.

11 Q When you say downstairs, you mean
12 the maintenance staff?

13 A Yes, but I don't go downstairs. He
14 was probably in the field.

15 Q Who?

16 A Mitchell Ramos.

17 Q What is his title?

18 A Supervisor of caretakers.

19 Q And the other man's title?

20 A Superintendent. We call
21 maintenance downstairs and upstairs, and I
22 called them and asked them to translate if
23 the language bank did not get back to me, and
24 most of the time they did not get back to me.

25 Q The superintendent, you said his

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1 A. Williams
2 office was upstairs but he was downstairs
3 supervising?

4 A Yes.

5 Q Was the maintenance staff out in
6 the field a lot?

7 A The super would be out in the field
8 and Mitchell and I called them and asked them
9 to come to the office.

10 Q Is it NYCHA policy to call the
11 maintenance staff when you need to translate?

12 A I don't know. It's not against the
13 rules.

14 Q Is there a written policy that says
15 you should do that, if you know?

16 A I don't know.

17 Q How did the meeting conclude?

18 A We left. We went back to the
19 office. I went back to the office. I was
20 pissed. That was it. We left and we had
21 another meeting about two days later. This
22 meeting did not sit well with me.

23 We had another meeting, two days
24 later and I went to my boss, Sibyl and Artis,
25 I said I felt that I was being bullied

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1 A. Williams
2 because I did not speak Spanish.
3 Q You had a meeting with Artis?
4 A Yes.
5 Q Who was at the meeting.
6 A The TA people were there.
7 Q TA means what?
8 A Tenant Association.
9 Q Two days later, at 250 Broadway
10 there was a meeting?
11 A Yes.
12 Q For TA presidents?
13 A I assume so. They were there.
14 Q Were all of the managers there, the
15 OPMOM managers?
16 A Probably some people was off that
17 day, but those that were there were there.
18 Q Two days after the July 30th
19 meeting there was a meeting at 250?
20 A Yes.
21 Q Miss Colon was there?
22 A Yes.
23 Q And Mr. Artis was there?
24 A Yes.
25 Q Do you remember if anyone else was

Page 215
May 8, 2019

1 A. Williams

2 there?

3 A No. Just the usual suspects, the
4 other managers.

5 Q You told Miss Colon and Mr. Artis
6 you felt you were bullied?

7 A The meeting did not sit well with
8 me. I kept thinking about it. It did not
9 feel right and I went to the two of them, I
10 said at that meeting I felt like I was being
11 bullied.

12 Q What did they say?

13 A They said I wasn't, but it just did
14 not sit right.

15 Q Did you guys say anything else?

16 A I don't remember.

17 MS. LIPPMAN: Mark this as Exhibit
18 R.

19 (Whereupon an article was marked
20 Defendant's Exhibit R for identification
21 as of this date.)

22 Q You talk to the press about your
23 lawsuit, right?

24 A Not The Amsterdam News. I don't
25 know where they got it from.

Page 219
May 8, 2019

1 A. Williams

2 Q Do you see that?

3 A Yes.

4 Q Do you remember making that
5 statement to any reporter?

6 A I don't remember, but I don't
7 believe that I spoke with this reporter.

8 Q Do you remember saying --

9 A I don't remember.

10 Q Different question.

11 Do you recall saying during the
12 meeting we have a language bank?

13 A Which one?

14 Q The meeting with Mark-Viverito.

15 A Yes.

16 Q Next paragraph goes on to say:
17 "Williams then said she told Mark-Viverito
18 she sometimes goes to the maintenance
19 department downstairs to get someone who
20 speaks Spanish."

21 Do you see that?

22 A Yes.

23 Q Did you say that during the
24 meeting?

25 MR. FLORESTAL: Objection.

Page 220
May 8, 2019

1 A. Williams

2 A I did. I said it before. I said
3 that, yes.

4 Q Is there a reason it's not in the
5 Amended Complaint?

6 MR. FLORESTAL: Objection.

7 A I don't know.

8 Q What is the language bank?

9 A The language bank is what the
10 Authority uses if someone speaks -- well,
11 it's a bunch of languages there that tells
12 you how to ask a question. You call up the
13 number, there is a number, every Housing
14 Assistant at Mill Brook had it. If you get a
15 non-English speaking person, you have them
16 sit down, you call the number and you ask for
17 someone who speaks Spanish. If someone is
18 there, you put the person on speakerphone and
19 I say ask her this question and she would,
20 and the person would continue and say it in
21 Spanish so you get to know what she wants,
22 the Spanish speaking person or anybody. They
23 had all languages there.

24 Q The language bank was staffed by
25 NYCHA volunteers; is that correct?

Page 221
May 8, 2019

1 A. Williams.

2 A I don't know. I don't know how
3 they do it. I don't know.

4 Q Was there a wait or could you get
5 through right away?

6 Earlier you said sometimes it took
7 a while.

8 A At the beginning it was -- I recall
9 it was okay, you could get someone. But
10 after a while they say I will call you back
11 and you wait and the tenant sits and waits
12 and waits and waits, so after a while it was
13 not just disrespectful to the resident but
14 disrespectful to me.

15 Q Was the translation service over
16 the phone or in person?

17 A Over the phone.

18 Q Just over the phone?

19 A Yes.

20 Q What if you needed a written
21 document translated?

22 A I don't know. I never needed that.
23 If they send something they wanted us to put
24 under the doors, they would have one side in
25 English and then the other in Spanish. I'm

Page 222
May 8, 2019

1 A. Williams
2 sure someone there could translate it. I
3 don't know, it never happened to me. I don't
4 know.

5 Q What if you needed someone in
6 person to translate?

7 A That never happened. I don't know
8 what they would do.

9 Q Did you need an appointment with
10 the language bank?

11 A No. The tenant comes in. You just
12 walk in. Sometimes they make an appointment,
13 but you walk in and someone sees you.

14 Q If the translation service was
15 needed immediately and you could not get
16 someone on the phone in the language bank,
17 what would you do?

18 A I ask for Raf, my super, or call
19 for Mitchell Ramos, the supervisor of
20 caretakers, to have him come and translate.

21 Q What if they were in the field?

22 A If they were in the field I'd call
23 them and they would say okay and it will be
24 ten minutes. Most of the time the tenants
25 just waited and one of them would come in.

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May 8, 2019

1 A. Williams
2 do remember doing that. I don't know when,
3 but I did it.

4 Q Do you remember talking to your
5 office staff about the wait at the language
6 bank?

7 A No. I said make sure to call the
8 language bank if someone does not understand
9 English.

10 Q Did anyone complain about the
11 amount of time?

12 A I don't recall, but is the nature
13 of the beast.

14 Q You said you would call the
15 superintendent or Mitchell?

16 A Yes.

17 Q Who is the super?

18 A Rafael Martinez and Mitchell Ramos.

19 Q Did anyone upstairs speak Spanish?

20 A Celeste, but she was terminated.

21 Q Was it because of her T&A?

22 A Yes.

23 Q She spoke Spanish?

24 A Yes.

25 Q She was able to communicate with

Page 225
May 8, 2019

1 A. Williams

2 them?

3 A She was not at Mill Brook a long
4 time, but when she was there.

5 Q Do you claim that former General
6 Manager Michael Kelly, Brian Clarke and
7 former Speaker Mark-Viverito worked together
8 to remove you as the manager of Mill Brook?

9 Do you claim that?

10 MR. FLORESTAL: Objection.

11 A I believe so.

12 Q What are the facts --

13 A I don't have them.

14 Q Tell me the facts upon which you
15 base the belief.

16 A I been at Mill Brook for eleven
17 years and there were just three years I had
18 problems that were unbelievable. Everything.
19 I was not respected as a manager. I did not
20 get the emails I should have and they know
21 better.

22 Q Which email?

23 A About Miss Coutrier when she was
24 transferred from Patterson to me. I should
25 have been on the email.

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May 8, 2019

1 A. Williams

2 Q Look at paragraph 27 of the Amended
3 Complaint.

4 Are you with me?

5 A Yes.

6 Q Read it to yourself.

7 A Okay.

8 Q You were not replaced, right?

9 A No.

10 Q You stayed the manager of Mill
11 Brook until you retired on May 1st, 2017?

12 A Yes.

13 Q Look at paragraphs 29 through 30
14 and read them to yourself and look up when
15 you're done.

16 A Okay.

17 Q Are you with me?

18 A Yes.

19 Q Paragraph 29, you said that there
20 was a meeting on August 28, 2015?

21 A Yes.

22 Q What was the purpose of the
23 meeting?

24 A We had a meeting -- this was for
25 OPMOM. We had a meaning every month. What

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May 8, 2019

1 A. Williams

2 A Yes.

3 Q You interpreted that to mean who?

4 MR. FLORESTAL: Objection.

5 A Anybody who spoke Spanish.

6 Q Anybody who spoke Spanish?

7 A Yes.

8 Q Even non-Hispanic people who spoke
9 Spanish at the development?

10 A Anyone that speaks Spanish. He
11 probably meant the people that do not speak
12 English. Spanish speaking people who do not
13 speak English. Otherwise, it makes no sense.

14 Q You said: "I use the tools that
15 the Housing Authority gives me."

16 A Yes.

17 Q What were you referring to?

18 A The language bank, my staff
19 translating. I was referring to whatever is
20 necessary. I do not apologize for calling
21 Mitchell or Raf upstairs to translate if the
22 Authority felt it was fine to let a tenant
23 wait in the office to wait for a call back
24 for 30 minutes or longer.

25 Q After the discussion about Spanish

Page 260
May 8, 2019

1 A. Williams
2 Spanish speaking tenants. They got to be
3 able to call someone.

4 Q Do you know if the Housing
5 Assistants put the poster Miss Molina gave
6 you up?

7 A I don't know.

8 Q You retired on May 1st, 2017?

9 A Yes.

10 Q At the time you filed your Amended
11 Complaint, October 26, 2016, you were still
12 working for NYCHA?

13 A Yes.

14 MS. LIPPMAN: Mark this as exhibit
15 T.

16 (Whereupon Answers to
17 Interrogatories were marked Defendant's
18 Exhibit T for identification as of this
19 date.)

20 Q I'll hand you a document marked as
21 Defendant's T. Look at it.

22 A Okay.

23 Q Turn to the last page where it says
24 Verification.

25 A Yes.

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May 8, 2019

1 A. Williams

2 MR. CARTER: I have no further
3 questions.

4 MR. FLORESTAL: I have some
5 questions.

6 EXAMINATION

7 BY MR. FLORESTAL:

8 Q Thank you for your patience and for
9 sticking it out.

10 A You're not Spanish, are you?

11 A No.

12 Q When you think of Spanish speaking,
13 you do not think of somebody like me?

14 A No.

15 Q I actually look African-American,
16 right?

17 MS. LIPPMAN: Objection. You are
18 leading your witness.

19 Q You would not know that I am
20 actually one half Dominican and pretty fluent
21 in Spanish, would you?

22 MS. LIPPMAN: Objection.

23 A No.

24 Q Did the council speaker ask you
25 whether you spoke Spanish?

Page 1

1

UNITED STATES DISTRICT COURT SOUTHERN
DISTRICT OF NEW YORK

-----X
SIBYL COLON,

PLAINTIFF (S),

-against- INDEX NO: 16-04540

THE CITY OF NEW YORK, NEW YORK CITY HOUSING
AUTHORITY, NEW YORK CITY COUNCIL SPEAKER
MELISSA MARK-VIVERITO, MICHAEL KELLY, and
BRIAN CLARKE,

DEFENDANT (S).

-----X,

DATE: May 3, 2019

TIME: 10:28 a.m.

(CAPTION TO CONTINUE ON NEXT PAGE.)

1

2

2

-----X,

3

ALLISON WILLIAMS,

4

PLAINTIFF (S),

5

-against- INDEX NO: 16-cv-08193

6

THE CITY OF NEW YORK, NEW YORK CITY HOUSING
AUTHORITY, NEW YORK CITY COUNCIL SPEAKER
MELISSA MARK-VIVERITO, MICHAEL KELLY, and
BRIAN CLARKE,

7

DEFENDANT (S).

9

10

DATE: May 3, 2019

11

TIME: 10:28 a.m.

12

13

14

EXAMINATION BEFORE TRIAL of a
Defendant/Third-Party Defendant,
NEW YORK CITY HOUSING AUTHORITY, by a
witness, MICHAEL KELLY, taken by the
Plaintiff, pursuant to Notice, held at the
FLORESTAL LAW FIRM, PLLC, 48 Wall Street,
New York, New York 10004, before a Notary
Public of the State of New York.

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2 A P P E A R A N C E S :

3

4 FLORESTAL LAW FIRM, PLLC
5 Attorney for the Plaintiff
6 48 Wall Street
7 New York, New York 10005
8 BY: MARCEL FLORESTAL, ESQ.

9

10 ZACHARY W. CARTER, ESQ.
11 Attorney for the Defendant
12 THE CITY OF NEW YORK
13 100 Church Street
14 New York, New York 10007
15 BY: J. CORBIN CARTER, ESQ.

16

17 GENERAL LITIGATION
18 Attorneys for the Defendant
19 NEW YORK CITY HOUSING AUTHORITY
20 250 Broadway
21 New York, New York 10007
22 BY: JANE E. LIPPMAN, ESQ.

23

24 ALSO PRESENT:

25 Sibyl Colon and Leslie R. Bennet

18 * * *

19

20

21

22

23

24

25

1 KELLY

7

2 Please state your name again for
3 the record.

4 A. Michael Kelly.

5 Q. Please state your address.

6 Please state the same address that you
7 stated before.

8 A. 250 Broadway, New York, New York
9 10007.

10 Q. Good morning, Mr. Kelly, I would
11 like to go in to some background
12 information. Have you ever been employed by
13 NYCHA?

14 A. Yes.

15 Q. Please tell me your history with
16 NYCHA, your employment history
17 chronologically, if you will.

18 A. I worked at NYCHA in two
19 different times um, once um, between 2010
20 and 2012 and again between 2015 and 2018.

21 Q. Can you go through the two
22 separate times that you worked at NYCHA?
23 And in what capacity were you working for
24 NYCHA, between 2010 and 2012?

25 A. I worked in the same capacity, in

1 KELLY

8

2 both those periods, as the general manager
3 of the New York City Housing Authority.

4 Q. And again, you mentioned you
5 worked between 2015 and 2018, so what
6 happened between 2013 and 2015?

7 A. Um, I took a position at the
8 Philadelphia Housing Authority as an
9 executive director and receiver. And then
10 left there to take a position as the
11 director of the Department of Housing and
12 Community Development in Washington, D.C.

13 Q. Okay, so two separate positions?

14 A. Yes, sir.

15 Q. And why did you leave the D.C.
16 position?

17 A. Change in mayoral administration.

18 Q. Were you terminated or did you
19 leave on your own?

20 A. No, there was a different mayor
21 and there is sort of, when a new mayor comes
22 in, they actually have a prerogative of
23 cleaning the cabinet, in which I was a
24 member of the mayoral cabinet.

25 Q. They took that prerogative?

1 KELLY

9

2 A. Yes, it is standard from my
3 experience.

4 MS. LIPPMAN: What was that?

5 (Whereupon, the referred to
6 answer was read back by the reporter.)

7 Q. At what point did you start
8 working for NYCHA, the second time around?

9 A. It was in April of 2015.

10 Q. What was your position then?

11 A. General manager.

12 Q. Tell me about the general
13 manager, exactly what were your
14 responsibilities, as a general manager?

15 A. Um generally, there are
16 responsible for day-to-day operations of the
17 agency. Um, which included um, property
18 management, um, the administration, um,
19 resident services, um and maintenance
20 operation.

21 Q. It seems like a lot of
22 responsibility.

23 MS. LIPPMAN: Objection.

24 MR. FLORESTAL: It is not a
25 question, it is making a comment.

1 KELLY

13

2 Q. I am sorry, you look like you
3 wanted to finish.

4 A. No, I answered your question.

5 Q. At what level, at all levels?

6 A. No, at the direct report level.

7 Q. Did you ever interview anybody
8 outside of the direct report level for
9 positions?

10 A. Yes.

11 Q. Are you familiar with Sibyl
12 Colon, the former director of OPMOM?

13 A. Yes.

14 Q. How are you familiar with Sibyl
15 Colon?

16 A. I worked with her.

17 Q. Did she report to you, at any
18 point?

19 A. No.

20 Q. Do you know how she came about to
21 attain that position, as -- well, let me
22 refer to it as "the former director of
23 OPMOM"?

24 MS. LIPPMAN; Objection, I am
25 just going to object for the record.

KELLY

2 This is not one of the topics of the
3 30B6 deposition. At this point I won't
4 instruct the witness not to answer, he
5 can answer.

6 MR. FLORENTAL: Off the record.

7 MS. LIPPMAN: No, I would like to
8 stay on the record.

9 MR. FLORESTAL: No, I want to say
10 off the record.

11 (Whereupon, an off-the-record
12 discussion was held.)

13 MR. FLORESTAL: So can you read
14 my last question please.

18 Q. Yes, do you know how she came
19 about to attain that position?

20 A. Well, there was an opening in the
21 position and um, Brian Clarke hired her.

22 Q. Did you have anything to do with
23 the hiring of Sibyl Colon?

24 A. Um, no.

Q. Did you um, review her resume?

1 KELLY 15

2 A. No.

3 Q. Did you speak with her at all,
4 about the position, prior to her obtaining
5 that position?

6 A. I may have, I do not recall.

7 Q. Now, you stated that you
8 interviewed um, non-direct reports for
9 positions, did you not?

10 MS. LIPPMAN: Objection.

11 A. The question is?

12 MR. FLORESTAL: Withdrawn, I am
13 sorry it is vague.

14 Q. Do you ever interview non-direct
15 reports, for positions of employment?

16 A. I have in the past, yes.

17 Q. Any reason why you didn't
18 interview Sibyl Colon?

19 A. Um, I do not recall.

20 Q. Are you familiar with the former
21 senior vice president of NYCHA, Brian
22 Clarke?

23 A. Yes.

24 Q. And how are you familiar with
25 Brian Clarke?

July 3, 2019

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SIBYL COLON,

Plaintiff,

-against-

THE CITY OF NEW YORK, ET AL.,

Defendants.

Index No.: CV-1604540

-----X
ALLISON WILLIAMS,

Plaintiff,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.

Index No.: CV-16-08193

-----X
48 Wall Street
New York, New York

July 3, 2019

11:53 a.m.

(CAPTION CONTINUED ON FOLLOWING PAGE)

July 3, 2019

2 CONTINUED EXAMINATION BEFORE TRIAL of
3 MICHAEL KELLY, a Defendant herein, taken pursuant to
4 Federal Rules of Testimony, and held at the
5 above-mentioned time and place before Colleen Ruic,
6 a Notary Public of the State of New York.

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Page 3
July 3, 2019

2 A P P E A R A N C E S:

3

4 FLORESTAL LAW FIRM, PLLC
5 Attorneys for Plaintiffs
6 48 Wall Street, Suite 11
7 New York, New York 10005
8 BY: MARCEL FLORESTAL, ESQ.

9

10 NEW YORK CITY HOUSING AUTHORITY
11 GENERAL LITIGATION
12 Attorneys for Defendants
13 NYCHA, MICHAEL KELLY, BRIAN CLARKE
14 250 Broadway
15 New York, New York 10007
16 BY: JANE E. LIPPMAN, ESQ.

17

18 NEW YORK CITY LAW DEPARTMENT
19 OFFICE OF THE CORPORATION COUNSEL
20 Attorneys for Defendant
21 MELLISA MARK-VIVERITO
22 100 Church Street
23 New York, New York 10007
24 BY: J. CORBIN CARTER, ESQ.

25

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July 3, 2019

1 KELLY

2 A. Correct.

3 Q. What number is June?

4 A. 76.7.

5 Q. In July, what number does it reflect
6 in July?

7 A. 69.2 days.

8 Q. In August, what number does that
9 reflect?

10 A. 65.6 days.

11 Q. Do you recall seeing those numbers
12 while you were a general manager in 2015?

13 A. Well, part of my monthly reports to
14 the board of commissioners included not only the
15 OPMOM properties, but all the properties on the
16 topic of vacant unit turnaround time. I'm not
17 familiar with these specific numbers, but I'm
18 familiar with the process these numbers would be
19 generated from.

20 Q. In your opinion, or rather is the
21 goal for that specific category, the vacant
22 available units aging, for that specific
23 category, is the goal for the numbers to be
24 trending up or for the numbers to be trending
25 down?

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July 3, 2019

1 KELLY

2 MS. LIPPMAN: Objection.

3 A. Again, as I stated earlier, it's
4 difficult to put trending with this because you
5 never know when a fire is going to happen or
6 legal issues come into play sometimes for
7 reentry. There's a lot of factors that can
8 effect it. There's also factors on a particular
9 month a lot of units could have very minimal
10 amount of maintenance work required for
11 rehabilitating them. So subsequently, the
12 turnaround time could be very short. So an
13 indicator like this for my purposes and my
14 understanding not a trending per month, but on a
15 cumulative average through the course of the
16 year and on a year-to-year basis to make sure
17 the agency is trending in a shorter period of
18 time.

19 Q. Going back to this category, did you
20 finish your response by the way?

21 A. Yes. I did, sir.

22 Q. Okay. So my question to you is, is a
23 lower number better than a higher number?

24 MS. LIPPMAN: Objection.

25 A. Yes, sir.

Page 16
July 3, 2019

1 KELLY
2 not a fair measure in my opinion. It's because
3 of the various factors that go beyond the
4 property manager. It could be trending upward,
5 and if there are mitigating reasons for that,
6 even if it's in a series, that would have to be
7 considered. That's why I think on a measure
8 like this looking at it on a much larger time
9 frame; annually and semiannually measuring
10 progress, that in terms of serial month periods
11 -- a serial period of 2012, '13, '14, or a
12 serial of spring, August, fall, winter. So
13 because of the nature of this particular
14 indicator, it does need to be measured monthly
15 and it is. If there is performance that is
16 moving in positive directions, that's a laudable
17 occurrence, but it's one that I think, again,
18 the term is balanced and there's a lot of
19 factors that need to be put in consideration.

20 Q. So that I understand you clearly, are
21 you saying that a number that takes multiple
22 months into account, the average multiple months
23 is more reflective of progress in that specific
24 category than just looking at these various
25 snapshots in time month by month; is that what

Page 17
July 3, 2019

1 KELLY

2 you are saying?

3 MS. LIPPMAN: Objection.

4 A. Repeat the question.

5 Q. Let me back up a little bit. I
6 presented you with the break up of the
7 month-by-month break up of the vacant available
8 units aging category. You are saying that it's
9 not fair to look at just the month by month;
10 correct?

11 A. No. I'm not saying the word fair --

12 MS. LIPPMAN: Objection.

13 A. -- I'm saying balanced. You need to
14 look at both.

15 Q. Okay. You need to look at the month
16 by month in conjunction with what?

17 A. Larger time periods.

18 Q. Okay, larger time periods. Like
19 what, for instance?

20 A. Like seasons, like years, like
21 semiannually.

22 Q. Would comparing --

23 A. Again, sir, if I can. There are
24 instances where capital funds which are used to
25 repair units that have been off line for a long

Page 25
July 3, 2019

1 KELLY

2 Q. Now, this is not measuring month by
3 month, is it?

4 MS. LIPPMAN: Objection.

5 A. It states it was from January through
6 August. What I probably did not say, but I
7 think is important in this line of questioning,
8 is that OPMOM in the early stages of 18 units
9 received a disproportionate amount of money to
10 operate. There was a desire on the agency's
11 behalf to really invest in this program, so
12 consequently service level response times and
13 regarding the variety of the other issues that
14 show on the balance scoresheet, that there was
15 improvement compared to the rest of the
16 portfolio is not a surprise to me considering
17 that those 18 units were allocated a higher
18 budget to manage than the rest of the portfolio.
19 I think it's important to note for the record
20 that this is wonderful stuff, but it was stuff
21 that was actually fueled or funded with a
22 disproportionate amount of resources.

23 Q. I'm looking at -- going back to
24 Plaintiff's Exhibit Number 7, I notice the
25 numbers are trending up in the same category,

Page 29
July 3, 2019

1 KELLY

2 A. Yes.

3 Q. Let's talk about the SLAs. What does
4 the SLA measure?

5 MS. LIPPMAN: Objection.

6 A. It measures the amount of time that a
7 maintenance work order can be completed or was
8 completed.

9 Q. Is there a target that OPMOM tried to
10 achieve in 2015; was there a target?

11 A. Yeah, seven days.

12 Q. In January of 2015, do you know what
13 the SLA number was?

14 A. For OPMOM, it's stated here 21.4
15 days.

16 Q. What was that number in February?

17 A. 25.1 days.

18 Q. I'm going to fast forward to June;
19 what was that number in June?

20 A. 24.1 days.

21 Q. What was that number in July?

22 A. 17 days.

23 Q. Okay. In your opinion, is the July
24 number better than the June number?

25 MS. LIPPMAN: Objection.

Page 30
July 3, 2019

1 KELLY

2 A. Yes.

3 Q. What was that number in August?

4 A. 7.5 days.

5 Q. In your opinion, is the August number
6 better than the July number?

7 A. Yes.

8 MS. LIPPMAN: Objection.

9 Q. Is the August number better than the
10 June number?

11 A. In my opinion, yes.

12 Q. Okay. So in your opinion, did OPMOM
13 meet it's SLA goals in August?

14 MS. LIPPMAN: Objection.

15 A. No.

16 Q. Why not, sir?

17 A. It's noted here it was 7.5 days, and
18 7 days is the target.

19 Q. Did it meet it in September?

20 A. Yes, it did, as well as the rest of
21 the agency. It should be noted that as general
22 manager around this time, this August, September
23 time, there was a shift in the way we approached
24 the measuring of maintenance service level days.
25 Prior to this, inspectors would go into an

Page 31
July 3, 2019

KELLY

apartment, identify what the simple -- I call it simple, singular maintenance service need was, put that into our larger work order system, have it dispatched to a maintenance worker to do the work. Agency wide it was the same 20, 25 days as it was noted here in early 2015. In the latter part of 2015, to provide higher customer service, as well as to reduce the service level, a shift in the approach to delivering maintenance was that the maintenance worker, not an independent inspector, would go in, identify the work needed to be done. They would carry with them a tool kit and replacement parts for as much as they could possibly do, and open and close a work order in realtime. So on balance what used to take 20 or 30 days, would take an hour or two. This was a shift not only for OPMOM, but the entire agency. If you look at these numbers compared to the entire agency, they all trended the same way.

22 Q. Please explain to me, again, what do
23 you mean by there was a shift in the entire
24 agency; what do you mean by that?

25 MS. LIPPMAN: Objection.

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July 3, 2019

1 KELLY

2 A. I will try to repeat what I just
3 said.

4 Q. Please?

5 A. After, as general manager, I reviewed
6 the process for the delivery of maintenance
7 work, it was decided with consultation from
8 senior staff and consultation with the other
9 maintenance supervisors that the approach that
10 we were using to have a third-party-inspection
11 unit come through to identify what work needed
12 be done at a particular apartment, to have that
13 work listed and identified and put into the
14 larger work order system, that work would then
15 be assigned to maintenance workers to do the
16 work. There was a relatively large time lag
17 between when that work was inputted, when that
18 work could be assigned, when that work could be
19 scheduled, and when that work can be done. On
20 average, agency wide, we were trending in the
21 three to four-week period for that. By making a
22 shift in how we approached the delivery of
23 maintenance work orders to provide the
24 maintenance workers with a cart that included
25 the average types of work that they would

KELLY

discover in an apartment during their visit, would actually go through, identify what work needed to be done, actually do the work, and open and close the work order in that time. Work that they were not able to do, complex work I mentioned earlier that requires other trades, would be identified and that work would be assigned to the work order system and work being done concurrently. That effort caused the service level for the entire agency to drop dramatically during the latter part of 2015.

13 Q. Sir, is lead paint testing considered
14 complex work?

15 MS. LIPPMAN: Objection. You
16 can answer.

17 A. Testing itself is not complex work.
18 The remediation can be very complex.

19 Q. Walk me through the testing part of
20 it. How simple is lead paint testing; to test
21 an apartment for lead paint, how simple a task?

22 A. I didn't say simple. It requires --
23 well, there's different forms of identification
24 beginning with the visual inspection of peeling
25 paint and to the use of a -- I forget the

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1 KELLY

2 acronym -- XRF machine; a larger machine that
3 can identify lead much more accurately than a
4 usual inspection, are I believe the two major
5 type of ways lead can be identified. Testing
6 though, forgive me for not answering the
7 question specifically, has to be done through
8 some sort of a machine.

9 Q. Was NYCHA in possession of the
10 testing machines in 2015?

11 MS. LIPPMAN: Objection. I'm
12 instructing the witness not to answer
13 this. There's a pending government
14 investigation on lead. You will have
15 to take this to the judge.

16 MR. FLORESTAL: I will.

17 Q. Mr. Kelly, why was Sibyl Colon
18 removed as a director of OPMOM?

19 A. In November of 2014, it was brought
20 to the chair's attention that there was a
21 professional who was very grounded in what we
22 were considering the principals of OPMOM, and
23 would be an excellent candidate to manage the
24 OPMOM Program.

25 Q. I'm sorry, when was that?

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1

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2 A. November of 2014. That candidate was
3 Janet Abraham. Janet was brought in to
4 interview with then General Manager Cecil House,
5 as well as the Chief Administrative Officer
6 Natalie Rivers, and the chair. She impressed
7 everyone, and the chair at that point in the end
8 of November, early December, reached out to a
9 colleague who had worked with Janet in Chicago
10 and confirmed that she was an excellent
11 potential candidate. Cecil House continued to
12 have conversations with Janet about her taking
13 the job as OPMOM vice president. Those
14 negotiations were not consummated. Cecil left
15 in April of 2015. OPMOM was being managed by
16 Kevin Norman for a period. Kevin Norman left
17 shortly after that. Sibyl Colon was assigned to
18 that position to manage the OPMOM Program. I
19 began work in April of 2015, pretty much
20 concurrent with Cecil House leaving, with Kevin
21 Norman leaving, and with the appointment of
22 Sibyl Colon. Shortly after I started, the
23 chair, Shola Olatoye, left for maternity leave.
24 During that period I was tasked with doing
25 preparations for budget hearing with the council

KELLY

1 and just getting reoriented as the general
2 manager of NYCHA. Upon the chair's return in
3 the end of July of 2015, she approached me and
4 asked if I knew Janet Abrahams. I told her I
5 heard of her. She said she was very impressed
6 with her and she wanted me to interview with her
7 to see her appropriate level to be recruited and
8 to pick up the discussions Cecil House had with
9 her prior to his leaving. I met with Janet
10 along with others; the chief of staff to the
11 deputy mayor and others met with Janet and were
12 very impressed. It was concluded that she would
13 be an exceptional candidate to move OPMOM from
14 the 18 units that were serving as the model
15 program to a full-blown program that was looking
16 to, in a phase manner, replace all of NYCHA's
17 management protocols to this OPMOM Protocol
18 because she was successful in doing specifically
19 the same thing in Newark and in Chicago and the
20 end of August of 2015 a general offer was put
21 out to Janet to assume those responsibilities
22 and she accepted at the end of August and began
23 work in September.

Q. I'm sorry, when was the offer made to

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2 Janet?

3 A. August of 2015. The short answer is
4 that a candidate has been pre vetted by the
5 chair and Authority prior to my arrival, and it
6 was decided this professional would be better
7 suited to manage OPMOM in its standard role and
8 it was decided to remove Sibyl Colon from that
9 position.

10 Q. Who decided that?

11 A. The chair and myself.

12 Q. What did you and the chair use as a
13 basis to remove Ms. Colon from her position as
14 director?

15 MS. LIPPMAN: Objection.

16 A. The interview process discussed
17 reference checking --

18 Q. Whose interview process?

19 A. The NYCHA interview process.

20 Q. And my question to you is what do you
21 mean by the interview process?

22 A. Anyone being hired by NYCHA would go
23 through a process in which they would meet with
24 other professionals and be asked questions and
25 to decide if they should be hired or not.

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July 3, 2019

1 KELLY

2 Q. Did you interview Sibyl Colon?

3 A. No.

4 Q. Do you know who interviewed Sibyl
5 Colon?

6 A. No, I do not.

7 Q. When you say, the interview process,
8 are you referring to the interview process of
9 Sibyl Colon?

10 A. No, I'm not.

11 Q. Whose interview process are you
12 referring to?

13 A. Janet Abraham.

14 Q. Talk to me about the interview
15 process of Janet Abraham.

16 MS. LIPPMAN: Objection.

17 A. She was first interviewed in November
18 and December of 2014 by then General Manager
19 Cecil House, Chief Administrator Officer Natalie
20 Rivers and the Chair Shola Olatoye; that's when
21 she was first interviewed. In July, August of
22 2015 she was brought back in and interviewed
23 with myself and the chair and with the chief of
24 staff to the deputy mayor of New York City and
25 that's what was the interview process. So it

1 KELLY
2 was a two-prong process; once in late 2014 and
3 again in the summer of 2015. It was intended,
4 from my understanding, she was the first choice
5 to assume that position long before I got there.

Q.: Do you know why the negotiation to
bring her in was not consummated?

8 A. No. Anecdotally, I heard it had to
9 do with salary.. I wasn't part of that.

10 Q. Do you know if she was given the
11 salary that she wanted when she started in
12 August of 2015?

13 A. I can't recall. I know she did
14 accept the offer, though, at the salary that was
15 offered.

16 Q. Did you speak with, did you ever
17 speak with Shola Olatoye about the performance
18 of OPMOM at any time in 2015?

19 A. I met with her regularly and spoke
20 with her on almost all operational topics.

21 Q. Did she have an opinion of how she,
22 believed OPMOM was progressing? .

A. I don't understand the question.

24. Q. Did she ever express to you an
25. opinion as to how she believed OPMOM was

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1 KELLY

2 and I'm good, but I'm not selfish. Off the
3 record.

4 (A discussion was held off the record.)

5 Q. After reviewing the fact sheet, is
6 there anything you want to add?

7 A... As I stated earlier, the second
8 bullet realtime repairs reflects one of the
9 tools we used for dramatically decreasing the
10 average service levels of 5.5, not only with
11 OPMOM, but the entire portfolio. It is
12 interesting that this bullet actually explains
13 what I was trying to explain a minute ago. By
14 having simple repairs such as minor plumbing,
15 smoke detectors, and window guards being done at
16 the time of inspection. So this actually sort
17 of reinforces the reasoning why there was
18 dramatic decreases in the service levels.

19 Q. That was a good thing; correct?

20 A. All of these are good things.

21 Q. Good OPMOM thing; right?

22 A. Yes, and it's not inconceivable that
23 using this different approach on top of the
24 additional resources that OPMOM had during this
25 2015 period, truly explains why there has been

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1 KELLY
2 such dramatic improvement and probably
3 relatively higher improvement compared to the
4 other sites because of additional manpower for
5 the 18 sites. They had additional maintenance
6 workers specifically.

7 Q. Do you think management had anything
8 to do with it?

9 MS. LIPPMAN: Objection.

10 A. Well, it is part of the balanced
11 scorecard and the property manager function was
12 divided into two categories; one, which was the
13 property management around servicing tenant's
14 administrative requirements including annual
15 recertification of incomes and change in family
16 composition and stuff. The other was the
17 maintenance function, of which the simple
18 repairs maintenance function would be under. So
19 management would be responsible as per the
20 dictates of OPMOM being the manager responsible
21 for all of the activities that happen on-site,
22 but there's a little nuance within that of who
23 has the responsibility for maintenance versus.
24 property management.

25 Q. Would it be safe to say if the

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1 KELLY

2 performance of a manager, this would be one of
3 many that would need to be looked at in a
4 balanced manner.

5 Q. Did you look at that performance
6 indicator prior to removing Sibyl Colon as the
7 director of OPMOM?

8 MS. LIPPMAN: Objection.

9 A. No. It was not part of the decision
10 making.

11 Q. What was part of your decision
12 making?

13 A. That I saw a candidate that I knew
14 had the experience and the ability to take the
15 modeling, the 18 property modeling of OPMOM, and
16 produce a program that would move it to the
17 change of management for the entire portfolio;
18 of which, Janet Abraham successfully did.

19 Q. Is she still there?

20 A. No. She took on the responsibilities
21 as the executive director of the Baltimore
22 Housing Commission.

23 Q. When did she leave NYCHA?

24 A. I don't know exactly when.

25 Q. Do you know why she left NYCHA?

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July 3, 2019

1 KELLY

2 MS. LIPPMAN: Objection.

3 A. She left to take the job of the
4 executive director of the Baltimore Housing
5 Commission.

6 Q. To your recollection, was she there
7 even a year?

8 A. I don't recall.

9 MS. LIPPMAN: Off the record.

10 (A discussion was held off the record.)

11 MS. LIPPMAN: I need a quick
12 break.

13 (A recess was taken at 1:20 until 1:27)

14 MS. LIPPMAN: Mr. Kelly wants
15 to clarify a couple of his previous
16 answers.

17 Q. That is subsequent to us taking a
18 break. So I wasn't privy to, but I'm not sure
19 if he was advised by his counsel --

20 MS. LIPPMAN: He can go ahead.

21 THE WITNESS: For the record,
22 based on the last question you asked,
23 Janet was here for a couple of years,
24 at least, and on the earlier issue
25 about review of performance of

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1 KELLY

2 Ms. Colon, I checked with the human
3 resources department at NYCHA prior to
4 the decision to move on to the
5 decision by the chair to aggressively
6 recruit Janet Abraham that it was
7 noted that Sibyl was an at-will
8 employee and as such, it was within
9 our privileges to make that offer to
10 Janet at the time.

11 Q. That was a conversation you had with
12 whom?

13 A. With Kerry Jew. She served as the
14 executive vice president for administration,
15 which included human resources.

16 Q. Going back to a previous statement
17 you made; Janet Abraham was here for a couple of
18 years?

19 A. Yes.

20 Q. Do you recall when to when?

21 A. No.

22 Q. When did she start?

23 A. Started in September 2015.

24 Q. Is she there now?

25 A. No.

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1 KELLY

2 directing the witness.

3 MS. LIPPMAN: Right, because
4 you are an expert on 30B6 witnesses.

5 MR. FLORESTAL: No, but you
6 are.

7 MS. LIPPMAN: Yes. I am
8 actually.

9 Q. Mr. Kelly, were you aware of a
10 meeting that occurred on July 30, 2015, at the
11 office at the Bronx office of the then City
12 Counsel Speaker Mellisa Mark-Viverito?

13 MS. LIPPMAN: Objection.

14 A. I'm aware there was a meeting. Yes,
15 sir.

16 Q. How are you aware of that meeting?

17 A. In discussions with my attorney --

18 MS. LIPPMAN: We don't want to
19 talk about discussions with your
20 attorney. I will object to the
21 question to the extent it calls for
22 attorney client privilege.

23 A. Something in the newspaper I remember
24 reading.

25 Q. Were you present at the meeting?

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1 KELLY

2 A. No.

3 Q. When did OPMOM begin, Mr. Kelly?

4 MS. LIPPMAN: Objection.

5 A. I don't know exactly; it started as
6 part of Shola Olatoye's, then chair,
7 administration of the department, I believe.

8 Q. How many properties made up OPMOM?

9 A. 18 properties to begin with.

10 Q. Did you review the performance of all
11 18 properties?

12 MS. LIPPMAN: Objection.

13 A. I received regular balance
14 scorecards. So in that -- but I do not recall
15 reviewing any individual performance of any
16 individual property manager.

17 Q. Those balance scorecards, what did
18 they measure?

19 A. It measured the various factors that
20 make up the responsibilities of property
21 managing.

22 Q. And did the balance scorecards, did
23 they break the properties down into individual
24 properties?

25 MS. LIPPMAN: Objection.

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1 KELLY

2 A. (Perusing).

3 Q. First, I would like to ask, do you
4 know what Plaintiff's Exhibit A is, sir?

5 A. It looks like a series of emails that
6 go from Monday, July 27, 2015, through July 30,
7 2015.

8 Q. Who are those emails from, each
9 email. You can tell me who each is from?

10 A. The first is from Kilsys
11 Payamps-Roure.

12 Q. Can you tell me who that is?

13 A. She served as my chief of staff.
14 Chief of staff to the general manager.

15 Q. Who was this email sent to?

16 A. Juanita Acosta.

17 Q. Who was that?

18 A. My secretary. Secretary to the
19 general manager.

20 Q. What is this email saying?

21 MS. LIPPMAN: Objection.

22 A. From Kilsys it says (reading),
23 Juanita, can you call the person below tomorrow
24 and ask her to send a copy of her resume as soon
25 as possible; Janet Abraham.

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July 3, 2019

1 KELLY

2 Q. Can you tell us about this email?

3 MS. LIPPMAN: Objection.

4 A. Looks like my chief of staff asked my
5 secretary to reach out to Janet Abraham to ask
6 her to send her a copy of her resume.

7 Q. Do you know why a chief of staff
8 would be asking for Janet Abraham's resume at
9 this point?

10 A. In conversations with the chair
11 directly or the chair and myself, my chief of
12 staff was directed to get a copy of Janet's
13 resume and she in turn asked my secretary to
14 follow up.

15 Q. I would like to fast forward to NYCHA
16 Bates Number 4936?

17 A. Okay.

18 Q. Specifically, I would like for you to
19 read the bottom email; last email from the
20 bottom?

21 A. From Kilsys Payamps-Roure to James
22 Patchet.

23 MS. LIPPMAN: To himself or do
24 you want him read it out loud?

25 THE WITNESS: I'm sorry. I

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1 KELLY

2 should have asked that question.

3 Q. Please read it out loud?

4 A. (Reading), James, attached is the
5 resume of Janet Abraham, who we are considering
6 for the position EVP of operations. Would you
7 like to meet with her before we make an official
8 offer.

9 Q. Can you tell me what EVP of
10 operations stand for?

11 A. Executive vice president.

12 Q. Do you recall what the job
13 description for the executive vice president
14 was?

15 A. Generally, it would report directly
16 to the general manager and would be responsible
17 for the property management function, as well as
18 the maintenance function, as well as the major
19 system function, as well as the OPMOM Program.

20 Q. Do you have more?

21 A. No.

22 Q. Would you consider that a senior
23 operations -- at a senior operations level?

24 A. Yes.

25 Q. The director of OPMOM, who did the

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July 3, 2019

1 KELLY

2 director of OPMOM report to?

3 MS. LIPPMAN: Objection.

4 A. Well, it initially reported to Brian
5 Clarke, and then it eventually reported to the
6 general manager.

7 Q. Okay. I'm sorry. It initially
8 reported to Brian Clarke?

9 A. Yes.

10 Q. And then what happened?

11 A. And then the position was converted
12 to a senior vice president and as such, it
13 reported directly to the general manager.

14 Q. When was it converted to a senior
15 vice president?

16 A. I don't know the exact time.

17 Q. So it was the director's position
18 that was converted to a senior vice president's
19 position?

20 MS. LIPPMAN: Objection.

21 A. At the time of working with Janet
22 Abraham, she was brought on as a vice president
23 to serve as the director of OPMOM, and then per
24 design, she was promoted to senior vice
25 president.

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July 3, 2019

1 KELLY

2 Q. So it's your testimony that she was
3 brought on as a vice president to serve as the
4 director of OPMOM; correct?

5 A. As overseeing OPMOM. To be clear
6 about the titles, she was brought in as a vice
7 president to oversee OPMOM.

8 Q. Was that to replace Sibyl Colon?

9 A. Yes.

10 MR. FLORESTAL: I'm going to
11 take a break right here.

12 MS. LIPPMAN: Okay. How long
13 of a break do you want?

14 MR. FLORESTAL: Let's take 15
15 minutes?

16 MS. LIPPMAN: Okay.

17 (A recess was taken at 2:00 until 2:15).

18 MR. FLORESTAL: I would like
19 something else marked.

20 (Section of transcript, 3 pages
21 was marked as Plaintiff's Exhibit B
22 for identification, as of this date.)

23 Q. I'm handing you what has been marked
24 Plaintiff's Exhibit B. It is a three-page
25 exhibit. Please take a look at it and look up

Page 1
September 23, 2019

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK.

-----x
SIBYL COLON,

Plaintiff,

-against- Index No:
16-04540

THE CITY OF NEW YORK, NEW YORK CITY HOUSING
AUTHORITY, NEW YORK CITY COUNCIL SPEAKER
MELISSA MARK-VIVERIO, MICHAEL KELLY and
BRIAN CLARKE,

Defendants.

-----x
ALLISON WILLIAMS,

Plaintiffs,

-against- Index No:
16-CV-08193

THE CITY OF NEW YORK, NEW YORK CITY HOUSING
AUTHORITY, NEW YORK CITY COUNCIL SPEAKER
MELISSA MARK-VIVERIO, MICHAEL KELLY and
BRIAN CLARKE,

Defendants.

-----x
Deitz-Lexitas Wall Street
48 Wall Street, 10th Floor
New York, New York

September 23, 2019
11:25 A.M.

(DEPOSITION of MICHAEL KELLY)

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1

2 September 23, 2019

3 11:25 A.M.

4

EXAMINATION BEFORE TRIAL of the
Defendant/Third-Party Defendant, MICHAEL KELLY,
taken by the Plaintiff, in the above-entitled
action, held at the above time and place,
pursuant to Notice, before Vanessa Walker, a
shorthand reporter, a Notary Public of the
State of New York.

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September 23, 2019

1
2 A P P E A R A N C E S:
3

4 FLORESTAL LAW FIRM
5 Attorneys for Plaintiff
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8
9 BY: MARCEL FLORESTAL, ESQ.

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17 GENERAL LITIGATION
18 Attorneys for Defendant
19 NEW YORK CITY HOUSING AUTHORITY
20 250 Broadway
21 New York, New York 10007

22 BY: JANE E. LIPPMAN, ESQ.

23
24
25

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1 M. KELLY

2 Q. And please state your address.

3 A. 250 Broadway, New York, New York, 10008.

4 Q. Mr. Kelly, what did you review in order
5 to prepare for this deposition?

6 A. I looked at some e-mails, and I talked
7 to my attorney.

8 Q. Some e-mails from whom?

9 A. Some e-mail from various people
10 regarding the hiring of Janet Abrahams.

11 Q. Besides your attorney, did you speak
12 with anybody to prepare?

13 A. No.

14 Q. We're going to go through some
15 background information again, Mr. Kelly. How
16 long were you at NYCHA for?

17 A. I was there in two different periods.
18 One with Mayor Bloomberg was 2009, 2012 and
19 again from 2015 to 2018.

20 Q. Were you there in the same capacity?

21 A. Yes, I was.

22 Q. What capacity was that?

23 A. I served as general manager of the New
24 York City Housing Authority.

25 Q. So that we have a nice and clean record.

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September 23, 2019

1 M. KELLY

2 What years under Mayor Bloomberg and then
3 subsequently what years were you there for?

4 A. I was there for 2009 through 2012 under
5 Mayor Bloomberg, and 2015 through 2018 under
6 Mayor DeBlasio.

7 Q. It was in the same capacity as general
8 manager?

9 A. Correct.

10 Q. Can you tell me what were your
11 responsibilities as general manager?

12 A. I was responsible for the day-to-day
13 operations of the agency.

14 Q. What does that mean exactly?

15 A. Similar to a chief executive officer of
16 a corporation, I was responsible for the
17 management of sever major functions of the New
18 York City Housing Authority.

19 Q. Like what?

20 A. The information technology department,
21 the Section 8 program, the capital program,
22 finance and administration, capital projects
23 and operations.

24 Q. I count approximately six different
25 departments; am I correct?

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September 23, 2019

1 M. KELLY

2 A. Approximately.

3 Q. Who answered to you directly?

4 A. Six different individuals.

5 Q. Do you recall their names?

6 A. Many of them, yes.

7 Q. What were they?

8 A. Bob Barano (phonetic). He's the
9 director of information technology. Cathy
10 Pennington was the director of the Section 8
11 program. Brian Clarke managed property
12 management. Luis Ponce was responsible for the
13 special services -- operation of special
14 services. Ray Rivera was responsible for
15 capital projects. Those are some names off the
16 top of my head, sir.

17 Q. So Brian Clarke and Luis Ponce both
18 reported to you, in addition to the other
19 individuals that you mentioned?

20 A. Yes, sir.

21 Q. Did anyone who reported directly to them
22 who are immediately under them report to you,
23 also?

24 A. No.

25 Q. So you only dealt with them and nobody

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1 M. KELLY

2 A. According to the e-mail, I don't recall
3 exactly. I have no reason to believe it would
4 not be on or about May 23, 2018.

5 Q. So you believe Octavia Hayward became
6 the director of OPMOM at that time as indicated
7 in the e-mail?

8 A. Yes, sir.

9 Q. Do you recall interacting with her as
10 the director of OPMOM?

11 MS. LIPPMAN: Objection.

12 A. Yes. And I would actually -- she would
13 be in the meetings, and she would -- I would
14 have discussions with whatever the programs
15 were and I would interact with her.

16 Q. Do you have -- did you form a general
17 opinion of her as a director of OPMOM whether
18 or not she was effective?

19 A. I believe so.

20 Q. What was that opinion?

21 A. That she was effective in her position.

22 Q. What makes you say that?

23 A. Janet Abrahams was the direct report. I
24 didn't report with her directly, but the fact
25 that Janet Abrahams would report progress,

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1 M. KELLY

2 there was the assumption that the folks that
3 work for her, particularly the person right
4 under her, was doing a good job.

5 Q. Looking at the second page, I'm looking
6 at the box that says salary and I see 73,144
7 and next to it 78,879. And I see a -- 177,733.
8 Do you recall how much Octavia Hayward made in
9 that position as director of OPMOM?

10 MS. LIPPMAN: Objection.

11 A. No, I do not recall.

12 Q. Would it be safe to say it would be
13 between 78,879 and 188,733?

14 MS. LIPPMAN: Objection. Go
15 ahead.

16 A. Based on this job posting, yes.

17 Q. Have you seen this job posting before?

18 A. No, I have not.

19 Q. How are job postings generated in NYCHA?

20 MS. LIPPMAN: Objection.

21 Outside the scope of the 30B6 topics.

22 Go ahead.

23 A. Through the human resources department.

24 Job posting would be administered through the
25 HR of NYCHA.

**ERRATA SHEET FOR THE DEPOSITION TRANSCRIPTS OF
MICHAEL KELLY**

RE: *Sibyl Colon v. The City of New York, et al.*, No. 16-CV-4540 (VSB)(OTW)
Allison Williams v. The City of New York, et al., No. 16-CV-8193 (VSB)(OTW)

DATES TAKEN: May 3, 2019 and July 3, 2019

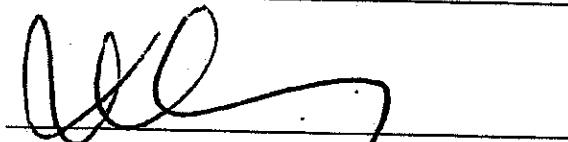
MAY 3, 2019

PAGE	LINE NUMBER	CORRECTION	REASON
11	12-15	"Chief of staff was Kilsys Pampore, um Brian Clarke, Lou Ponce, Bob Morano was in charge of information technology" should be "Chief of staff was Kilsys Payamps-Roure, Brian Clarke, Lou Ponce, Bob Morano was in charge of information technology, Kerri Jew, Richard Couch, Josephine Russo, Cathy Pennington, Natalie Rivers, Ray Ribeiro, Melanie Hart, and Victor Martinez."	Correction/Clarification/Typographical Error – Witness recalled additional direct reports.

JULY 3, 2019

PAGE	LINE NUMBER	CORRECTION	REASON
9	20	"Balance Scorecard" should be "Balanced Scorecard"	Typographical Error
47	24	"I don't know exactly when" should be "Janet Abrahams left NYCHA in July 2017."	Correction – Witness recalled date after deposition
48	8	"I don't recall" should be "Janet Abrahams worked at NYCHA between September 2015 and July 2017."	Correction – Witness recalled dates after deposition

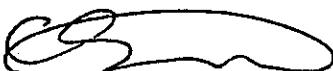
50	6	"I don't remember" should be, "Janet Abrahams left NYCHA in July 2017."	Correction – Witness recalled date after deposition
51	9	"Again, sir, I don't know" should be "Janet Abrahams left NYCHA in July 2017."	Correction – Witness recalled date after deposition
60	11-13	"And then the position was converted to a senior vice president and as such, it reported directly to the general manager" should be, "And then the position was converted to a senior vice president, and with this conversion Janet Abrahams was promoted to senior vice president, and as such, the position still reported directly to the general manager."	Clarification
60	16	"I don't know the exact time" should be "Janet Abrahams became Senior Vice President in October 2016."	Correction – Witness recalled date after deposition



Michael Kelly

Subscribed and sworn to before me

this 3rd day of September, 2019



CHRISTINA M SALERNO
Notary Public, State of New York
Reg. No. 02SA6384142
Qualified in Kings County
Commission Expires 12/31/2022

**ERRATA SHEET FOR THE SEPTEMBER 23, 2019 DEPOSITION
TRANSCRIPT OF MICHAEL KELLY**

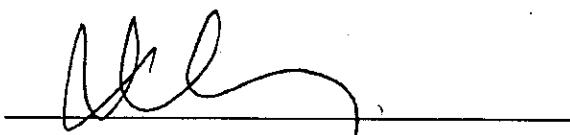
RE: *Sibyl Colon v. The City of New York, et al.*, No. 16-CV-4540 (VSB)(OTW)
Allison Williams v. The City of New York, et al., No. 16-CV-8193 (VSB)(OTW)

DATE TAKEN: September 23, 2019

PAGE	LINE NUMBER	CORRECTION	REASON
9	8	"Bob Barano" should be "Bob Marano."	Typographical Error
34	4	"May 23, 2018" should be "May 23, 2016."	Typographical Error
38	14-15	"arrest of an employee" should be "arrest of an employee in May 2015."	Clarification
39	20-23	"The NYCHA appointed a vice president to manage OPMOM. I do not recall if there was an acting director immediately after Sibyl Colon's leaving" should be, "NYCHA appointed a vice president to manage OPMOM. NYCHA did not appoint an acting director of OPMOM to replace Sibyl Colon after she left."	Clarification/Correction – Witness recalled information after deposition
40	4	"I don't know" should be, "No, NYCHA did not appoint an acting director."	Correction – Witness recalled information after deposition
45	18	"I do not know at all. I do not know" should be, "I do not know at all. I do not know. But as I previously testified, Ms. Hayward does not state what she is the acting director of, and her signature block states that she is a Regional Manager of OPMOM."	Clarification
49	9	"No" should be "No. And this email does not state that Sibyl Colon had reached out to a local political office to try to remove Allison Williams. Instead, the email states, "We	Clarification

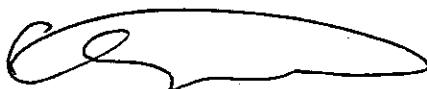
		reached out to the local political office where we had the meeting at and they did not provide any complaint documentation or specifics.””	
49	14	“core sight” should be “foresight”	Typographical Error
49	15	“personal” should be “personnel”	Typographical Error
52	7	“He did not” should be, “He did not. The email you showed me does not state that Brian Clarke asked Sibyl Colon to reach out to a local political office to try to have Allison Williams removed as the Manager of Mill Brook Houses. And Brian Clarke never told me that he asked Sibyl Colon to reach out to a local political office or anyone else to try to have Allison Williams removed as the Manager of Mill Brook Houses.”	Clarification
70	8-9	“7/18/2018 posted date to 228” should be, “7/18/2017 posting date to 7/28”	Typographical Error
73	3	“7/18/2018” should be “7/2017.”	Typographical Error
74	16	“It does not look like so based on the posting of this” should be, “It does not look like so based on the posting of this. As I previously testified, Ms. Abrahams left NYCHA in July 2017, and this posting is dated July 18, 2017. Also, Ms. Abrahams’ promotion to the Senior Vice President title in October 2016 was an internal promotion and was not posted. As I’ve already testified, Ms. Abrahams was hired as a Vice President and then promoted to Senior Vice President per design.”	Clarification

78	7	"Yes" should be, "Yes, Senior Vice President for Next Generation Operations was Janet Abrahams' title when she was promoted in 2016. As I've already testified, she was hired in 2015 as a Vice President."	Clarification
80	10	"Yes, it was" should be, "Yes, it was her salary when she was promoted to Senior Vice President in 2016."	Clarification
95	21	"Yes" should be, "Yes. Initially we thought we might hire Janet Abrahams at the EVP level. After meeting with her, it was clear to us that she would be a very valuable member of our team. We decided to hire her at the VP level with the full expectation that she would grow into a larger role, which she did."	Clarification



Michael Kelly

Subscribed and sworn to before me
this 23rd day of October, 2019



CHRISTINA M SALERNO
Notary Public, State of New York
Reg. No. 02SA6384142
Qualified in Kings County
Commission Expires 12/31/2022

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1 M. KELLY
2

3 MS. LIPPMAN: I have no further
4 questions.
5

6 MR. CARTER: Nothing for me.
7

8 MR. FLORESTAL: I'm done.
9 (Whereupon, the deposition
concluded at 3:37 p.m.)
10

11 MICHAEL KELLY
12

13 Signed and subscribed to
14 before me, this 23rd day
15 of October 2019.
16

17 Notary Public
18

19 CHRISTINA M SALERNO
20 Notary Public, State of New York
21 Reg. No. 02SA6384142
22 Qualified in Kings County
23 Commission Expires 12/31/2022
24
25

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

1

SIBYL COLON,

X

CV-16-04540 (VSB)

Plaintiff,

- against -

THE CITY OF NEW YORK, NEW YORK CITY HOUSING
AUTHORITY, NEW YORK CITY COUNCIL SPEAKER MELISSA
MARK-VIVERITO, MICHAEL KELLY, and BRIAN CLARKE,

Defendants.

X

ALLISON WILLIAMS,

Plaintiff,

CV-16-08193 (VSB)

- against -

THE CITY OF NEW YORK, NEW YORK CITY HOUSING
AUTHORITY, NEW YORK CITY COUNCIL SPEAKER MELISSA
MARK-VIVERITO, MICHAEL KELLY, and BRIAN CLARKE,

Defendants.

X

48 Wall Street

New York, New York 10005

June 13, 2019

10:36 a.m.

EXAMINATION BEFORE TRIAL of the
Defendant, BRIAN CLARKE, pursuant to Order, before
Krystina Kornak, a Notary Public within and for the
State of New York.

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1 A P P E A R A N C E S : 2

2
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18 BY: J. CORBIN CARTER, ESQ.

21 ALSO PRESENT:

22 SIBYL COLON, Plaintiff

23
24
25

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1 - BRIAN CLARKE - 7

2 A. Yes.

3 Q. Who was that?

4 A. My counsel.

5 Q. Did you speak with anybody else besides
6 your counsel?

7 A. No.

8 Q. Now, Mr. Clarke, have you ever been
9 employed by NYCHA?

10 A. Yes.

11 Q. How long were you employed by NYCHA?

12 A. 22 years.

13 Q. Can we go through your history with
14 NYCHA, starting from the first position up to the
15 last?

16 A. Sure. In June of 1996 I was recruited
17 to be the lead detection and abatement coordinator
18 for the Authority. I held that position within the
19 technical service department for three years. In
20 1999 I was promoted to the deputy director for the
21 technical service department. I held that position
22 until, let's see, March of 2004 when I was promoted
23 to director of the technical services department.
24 In 2007 I was promoted to assistant deputy general
25 manager of operations for support services. I held

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1 - BRIAN CLARKE - 8
2 that position until -- I think it was 2011, 2012
3 when I was promoted to vice president of operations
4 for support services. I was then promoted in -- I'm
5 trying to think of the date, whether it was late
6 2014, early 2015 to, you know, vice president of
7 operations for property management, and was
8 subsequently promoted to senior vice president of
9 operations for property management.

10 Q. Okay. It's a long history.

11 A. Yeah.

12 Q. Now you mentioned 2011 you were
13 promoted to VP?

14 A. Yes.

15 Q. Would that be considered a senior
16 position at NYCHA?

17 MS. LIPPMAN: Objection.

18 You could answer.

19 A. Yes.

20 Q. From 2014 to 2015 you were senior VP?

21 A. No. I was senior VP -- I think it was
22 from like -- it was sometime in 2015 when I was
23 promoted to senior VP, you know, until 2017
24 November of 2017.

25 Q. Would that be considered a senior

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1 - BRIAN CLARKE - 9

2 executive position in NYCHA?

3 MS. LIPPMAN: Objection.

4 Go ahead.

5 A. Yes.

6 Q. What does it mean to be in a senior
7 executive position? What sort of authority do you
8 have as a senior executive at NYCHA?

9 MS. LIPPMAN: Objection.

10 Go ahead.

11 A. So first you oversee, at least in my
12 case, multiple departments. You certainly have
13 certain thresholds for, you know, approving, you
14 know -- signing off, I should say. Signing off on
15 contracts, because different thresholds would then
16 require, you know, potentially board approval.
17 Things along those lines. So there's, you know, the
18 financial piece. Supervising multiple, you know,
19 departments. You know, as a supervisor or senior
20 you are overseeing day-to-day operations, which has
21 multiple responsibilities in functions. You make,
22 you know, recommendations regarding personnel
23 actions. Also sign off on, you know, certain, you
24 know, procedures, you know, within the agency.
25 Those procedures may require other signatures

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1 - BRIAN CLARKE - 10

2 including, you know, mine, but generally speaking
3 those are some of the responsibilities.

4 Q. Are there other levels above you as a
5 senior VP?

6 A. Yes.

7 Q. How many other levels are there above
8 you?

9 A. Well, there's the general manager;
10 there's the Chair; there's the, you know, the board;
11 there's -- and that's generally the supervisory
12 hierarchy.

13 Q. Do you answer to the board?

14 MS. LIPPMAN: Objection.

15 A. I answer to the general manager and
16 would have to make presentations to the board, but
17 when you -- I'm not clear on what you're trying to
18 ask when you say "answer to the board."

19 Q. I think you've cleared it up for me.

20 A. Okay.

21 Q. Okay, thank you.

22 Are you familiar with the former
23 director of OPMOM, Sibyl Colon?

24 A. Yes.

25 Q. How are you familiar with Sibyl Colon?

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1

- BRIAN CLARKE -

11

2

A. We worked together at the New York City
Housing Authority for a number of years. She served
as the director of the OPMOM program for a few
months in 2015.

6

Q. How many years did you work with Sibyl Colon
for?

8

A. I'm not -- I'm not -- well, can you
please clarify what you mean by "work"?

10

Q. Maybe you could clarify. You said
we've worked together, so I'm trying to understand
what you mean by, we worked together for a number of
years.

14

A. So there's over 11,000 employees at the
time, you know, a different number throughout the
years of employees, so we worked together there. I
worked -- my most close interaction with Sibyl was
when she was director of OPMOM, and then I had met
Sibyl once when she was a manager I think at one of
the Lower East Side developments, Riis houses. I
can't remember what year.

22

Q. Okay, that's my question.

23

At what point did Sibyl report to you?

24

A. I think it was late May.

25

Q. Of what year?

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1 - BRIAN CLARKE - 12

2 A. Of 2015. Late May, early June.

3 Q. Prior to that did Sibyl ever report to
4 you directly?

5 A. No.

6 Q. Did Sibyl report to you indirectly
7 prior to that?

8 MS. LIPPMAN: Objection.

9 Go ahead.

10 A. Can you clarify?

11 Q. Did you supervise Sibyl's -- at any
12 point prior to May of 2015 did you supervise Sibyl's
13 immediate supervisor?

14 A. Yes.

15 Q. Who was that?

16 A. Oh, well --

17 THE WITNESS: Can I explain?

18 A. So there's different organizational
19 hierarchies. There's different roles and
20 responsibilities at different levels, so as senior
21 VP of property management had, you know, directors
22 reporting to me. Sibyl was an administrator in one
23 of the property management departments -- I think
24 it's Manhattan property management department -- and
25 she reported to a deputy director, who reported to a

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1 - BRIAN CLARKE - 15
2 A. Yes.
3 Q. In what position did Kevin Norman hold?
4 A. He was director of the OPMOM program.
5 Q. Prior to Sibyl Colon?
6 A. Yes.
7 Q. Did he report directly to you at the
8 time?
9 A. No.
10 Q. Who did he report to?
11 A. Cecil House. Can I just correct?
12 Q. Sure.
13 A. Cecil and Kevin left within the same
14 time frame. There might have been a short time
15 where Kevin reported to me in the OPMOM program.
16 Q. Who was Cecil House?
17 A. Cecil House was a former general
18 manager of NYCHA.
19 Q. So it's your testimony that Kevin
20 Norman reported to you at some point?
21 MS. LIPPMAN: Objection.
22 A. Can you clarify?
23 Q. Oh, no. Maybe you could clarify for
24 me, because your statement was he might have, and
25 I'm presuming you're referring to Kevin Norman. He

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June 13, 2019

1 - BRIAN CLARKE - 20

2 Williams was the manager of Mill Brook houses?

3 A. No.

4 Q. Was she there before you became the
5 SVP?

6 MS. LIPPMAN: Objection.

7 A. I believe so.

8 Q. What was the mission of OPMOM?

9 MS. LIPPMAN: Objection.

10 A. So can you just clarify for me what you
11 mean by "mission"?

12 Q. Well, did OPMOM have any written
13 material in which they had certain goals that they
14 wanted to meet?

15 A. Yeah. I mean, the reason why I asked
16 for the clarification, you know, of course is we
17 want to have a line to the overall agency's mission,
18 but specifically this program was really about
19 implementing asset management -- true asset
20 management based on the HUD structure, and -- I'm
21 just trying to think of the right term. Based on
22 the principals, I should really say, of asset
23 management, but to really get down to it, it was --
24 what we really wanted to do was to, one, put the
25 resources and the responsibilities and the

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1 - BRIAN CLARKE - 21

2 accountability at the local level, at the property
3 management level, and reduce, as much as we could,
4 central office control.

5 Q. Now you used the phrase, which is not
6 an everyday phrase, "asset management." Can you
7 sort of elaborate what you mean by that?

8 A. So what I mean by that, and it's kind
9 of -- I'll be restating it a little bit, but what
10 HUD wants to do is really all the costs, you know,
11 for the program to be at the property level, and
12 with those costs, the expenses and the decisions
13 behind those expenses to -- for them to be made at
14 the property management level. HUD has a formula
15 when it comes down to finance and budgeting, but
16 they're looking for, you know, 77 -- you know,
17 70 percent direct, you know, expenses, you know, at
18 the property, and then the 30 percent for
19 administration, which could be supervisory and then
20 also towards, you know, central office.

21 MR. FLORESTAL: Just to clarify, this
22 is a 30(B)(6) question, meaning, this is a
23 question posed to NYCHA.

24 MS. LIPPMAN: What question? You're
25 about to ask something?

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1 - BRIAN CLARKE - 25

2 Q. Why did they leave?

3 A. I believe they all had better
4 opportunities. So the -- and then I was -- at the
5 same time I was promoted relatively at the same time
6 in this position. And then when the general manager
7 left, the OPMOM program was moved to report to me,
8 so I had to fill three vacancies, and these are
9 three high-level positions at that time.

10 Q. What year was that?

11 A. That's 2015.

12 Q. So in 2015 you were acting manager, is
13 what you're saying?

14 A. Well the --

15 MS. LIPPMAN: Objection.

16 A. I wasn't called acting director of the
17 OPMOM program.

18 Q. What was your title?

19 A. I was senior vice president of
20 operations for property management, and they had
21 moved the program under me when everybody else left,
22 and so the -- so we did a posting. The posting
23 covered the three -- you know, the three positions.
24 The -- and -- we also -- so we put the posting up.
25 I'm just trying to remember, I apologize, and

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June 13, 2019

1 - BRIAN CLARKE - 27

2 MS. LIPPMAN: Objection.

3 A. No.

4 Q. Please clarify for me. When you took
5 over the OPMOM program who did you take it over
6 from?

7 A. So when the general manager left the
8 program was reporting to me. It was moved to report
9 to me. And the general manager left, I think it
10 was, you know, late March, early April.

11 Q. Two thousand and --

12 A. '15. At that same time Alana Augusta
13 and Kevin Norman also left the agency and --

14 Q. And who are they?

15 MS. LIPPMAN: Were you finished?

16 A. No, but that's all right.

17 Q. If you're not finished, by all means,
18 please let me know. This is not a dictatorship
19 here.

20 A. Okay. So we had these three vacancies.
21 I was relatively new to the position, and we had to
22 fill them, you know, as quickly as we could, so we
23 posted, and it was kind of like a multiple posting.

24 Q. When you say "we had these three
25 vacancies," what were the vacancies?

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1 - BRIAN CLARKE - 28

2 A. Director of Manhattan property
3 management; director of the OPMOM; and director of
4 mixed finance program.

5 Q. Got it. Continue.

6 A. So we did an internal and external
7 posting.

8 Q. For?

9 A. For the OPMOM and mixed finance, you
10 know, position, as well as the, you know, director
11 of Manhattan property management position. So when
12 the posting went out we took, you know, candidates
13 for those positions, both internal and external.
14 And so what we did is we reviewed -- you know, we
15 reviewed their resumes, put together, you know, an
16 interview, you know, schedule, interviewed folks,
17 and we filled the Manhattan director position.

18 Q. How long did it take to fill the
19 Manhattan --

20 A. I don't -- I don't recall the time
21 frame, but it was, you know, that was the one we
22 filled -- the Manhattan property management director
23 was the one that we filled first. Then I'm unclear
24 on the, you know, exact dates or how long it took,
25 but we next filled the mixed finance, you know,

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June 13, 2019

1 - BRIAN CLARKE - 29

2 position; and the OPMOM position we did not fill
3 from the internal and external, you know, posting.

4 Q. Now at this time that these positions
5 were filled you were still acting as GM?

6 MS. LIPPMAN: Objection.

7 A. I was never acting as GM.

8 Q. Now when you say we reviewed resumes,
9 who is "we"?

10 A. So it's a combination of human
11 resources. Then I would review them. The panel for
12 whoever was on the panel would review them. Had
13 folks -- you know, I would bounce resumes off staff,
14 you know, in my office.

15 Q. You would review every single resume?

16 A. No. So the human resources would --
17 you know, they would review and there might be some
18 that wouldn't -- you know, that didn't meet the
19 minimum criteria, but there was -- and then whatever
20 resumes would be sent over to my office we would
21 review and figure out which candidates we would
22 interview.

23 Q. How would that work? Would human
24 resources review first or did that go in any
25 particular order?

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1 - BRIAN CLARKE - 30

2 A. The human resource would do just kind
3 of a quick preliminary, you know, review, and then
4 they would come over to my office.

5 Q. So from human resources to your office?

6 A. Yes.

7 Q. From there would you review them?

8 A. Yes, I would.

9 Q. Then what would you do with the ones
10 that you approve?

11 A. We would put together a list and
12 schedule interviews.

13 Q. With who? With the panel?

14 A. Yeah, with the panel.

15 Q. Now without giving us an exact date,
16 was the position for OPMOM the last position to be
17 filled?

18 MS. LIPPMAN: Objection.

19 Q. Was the position for director of OPMOM
20 the last position to be filled?

21 A. I believe so.

22 Q. So the director of the Manhattan
23 properties was filled before the director of OPMOM
24 position was filled, correct?

25 A. Yes.

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1 - BRIAN CLARKE - 31

2 Q. Director of mixed finance was filled
3 before the position of director of OPMOM, correct?

4 A. They were relatively around the same
5 time, but I believe that was before.

6 Q. Do you know why that was?

7 MS. LIPPMAN: Objection.

8 Q. Why did it take so long to fill the
9 position of director of OPMOM?

10 A. Well I mean the -- so we started, you
11 know, the posting in -- I guess it was March and we
12 filled the position by the end of, you know, May.

13 Q. So you started the posting in
14 March of 2015?

15 A. Yeah. Yeah.

16 Q. And the position was filled by when?

17 A. End of May, early June.

18 Q. How was the choice for the director of
19 OPMOM made?

20 MS. LIPPMAN: Objection.

21 Go ahead.

22 A. So we have a panel. We would review
23 the -- you know, we would review the resumes. Then
24 we would conduct interviews, then we would do a
25 short list and review those folks that would be on

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June 13, 2019

1 - BRIAN CLARKE - 32

2 the short list for the positions, and then the
3 panel -- each member of the panel would make a
4 recommendation on who they felt was the best
5 candidate for that position, and then once we had
6 that candidate then we would make the recommendation
7 to the general manager, and the general manager
8 would meet with that person, and then ultimately
9 would either agree with the recommendation or not.

10 Q. How many candidates made it to the
11 short list, do you recall?

12 A. I don't recall exactly.

13 Q. How did the panel make its decision;
14 was it by majority rule?

15 A. The -- generally speaking -- generally
16 speaking, yes. Yeah.

17 Q. Would it be safe to say that the
18 majority thought that Sibyl Colon was the proper fit
19 for the position of director of OPMOM?

20 MS. LIPPMAN: Objection.

21 A. Yes.

22 Q. Your answer is yes?

23 A. Yes.

24 Q. When you hired Sibyl Colon for the
25 director of OPMOM did you feel that she would be

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June 13, 2019

1 - BRIAN CLARKE - 34

2 Sibyl interviewed very well for the position. At
3 least in my opinion.

4 Q. Well the panel voted, correct?

5 A. Yeah.

6 Q. Would it be safe to say in the panel's
7 opinion too, at least the majority of the panel's
8 opinion?

9 A. Yes.

10 MR. FLORESTAL: I'd like an exhibit
11 marked, please.

12 (Whereupon, an e-mail was marked as
13 Plaintiff's Exhibit 1 for identification.)

14 Q. You've been handed what has been marked
15 as Plaintiff's Exhibit 1. I'm just going to ask you
16 just to read it to yourself and please look up when
17 you're through.

18 A. Okay.

19 Q. Mr. Clarke, do you recall -- first of
20 all, can you tell us what this is?

21 A. This is an e-mail and a resume from
22 Sibyl Colon.

23 Q. Do you recall receiving this e-mail?

24 A. You know, I don't recall the specifics
25 of it, but, you know, certainly acknowledge it.

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June 13, 2019

1 - BRIAN CLARKE - 35

2 Q. Do you acknowledge that this e-mail was
3 sent to you?

4 A. Yes.

5 Q. Do you acknowledge that you received
6 this e-mail?

7 A. Yes.

8 Q. Do you acknowledge reading this e-mail?

9 A. Yes. I just read it.

10 Q. What was your opinion of Ms. Colon's
11 resume?

12 A. Well, I don't recall my opinion
13 exactly, you know, back -- you know, back then, but,
14 you know, she certainly has been employed with NYCHA
15 for a long time, and had, you know, various
16 positions within the agency, and the -- in looking
17 at this now I thought she had actually been a
18 borough administrator longer than what this
19 reflects.

20 Q. I'd like to focus your attention on a
21 few specific sections. I'm looking at 2009, 2014
22 NYCHA special initiatives; do you see that line?

23 A. Yes.

24 Q. Do you know what that is? What is
25 NYCHA special initiatives, do you know?

1 - BRIAN CLARKE - 41
2 Verizon Wireless for GLTE snap on there so -- if you
3 could explain to us exactly what you are saying in
4 that e-mail?

5 A. I'm responding to the e-mail that's
6 listed below from Brian Honan where he asked, "Who
7 else will be attending the meeting with the
8 manager?"

9 Q. What meeting is Brian Honan referring
10 to in this e-mail?

11 A. It's the meeting at Council Member
12 Viverito's office.

13 Q. Did the council member request to meet
14 with any particular individual for this meeting?

15 MS. LIPPMAN: Objection.

16 MR. CARTER: Objection.

17 A. I don't recall the details of who was
18 requested to be there.

19 Q. Is there anything that might help
20 refresh your recollection as to who was requested to
21 be at that meeting?

22 A. The arrangements for the meeting are
23 handled through the intergovernmental office.
24 Obviously there looks like there was a request from
25 the Housing manager, and then the regional asset

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2 manager for the area, the director for the area, and
3 me are attending with the manager. Exactly who was
4 invited I don't remember all those details.

5 Q. Did you inquire as to why Speaker
6 Mark-Viverito wanted to meet with you, the Housing
7 manager, Sibyl Colon, and Mr. Artis?

8 MS. LIPPMAN: Objection.

9 MR. CARTER: Objection.

10 A. Can you just repeat the question? I'm
11 sorry.

12 Q. Did you inquire with Mr. Honan as to
13 why the Speaker Mark-Viverito wanted to meet with
14 you, the Housing manager, Ms. Colon, and Mr. Artis?

15 MS. LIPPMAN: Objection.

16 MR. CARTER: Objection.

17 A. I don't recall the specifics, but I'm
18 sure I would have.

19 Q. Do you recall what he said?

20 A. The -- I don't recall exactly what he
21 said, but obviously there were, you know,
22 performance issues up at, you know, Mill Brook
23 houses.

24 Q. What sort of performance issues did he
25 say?

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2 A. Like I said, I don't recall the exact
3 details or anything along those lines, but I know
4 there's customer service in the office as well as,
5 you know, maintenance issues.

6 Q. When there are performance issues with
7 a particular development what is the process of
8 rectifying those issues?

9 MS. LIPPMAN: Objection.

10 A. Well it really depends on what those
11 issues. I mean, you have to really kind of
12 understand what's the underlying issues, so I would
13 need more specifics behind that to really be able to
14 answer you properly.

15 Q. We'll get to that.

16 MR. FLORESTAL: Before that I'd like to
17 have another exhibit marked.

18 (Whereupon, two e-mails was marked as
19 Plaintiff's Exhibit 3 for identification.)

20 Q. Please review what has been marked as
21 Plaintiff's Exhibit 3, and please look up when
22 you're through.

23 A. Okay.

24 Q. Can you please tell us what Plaintiff's
25 Exhibit 3 is?

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2 Sometime in August of 2015.

3 Q. What occurred in August of 2015 that
4 led to her being removed as the director of OPMOM?

5 MS. LIPPMAN: Objection.

6 A. I wasn't involved in the
7 decision-making process for that, so I don't know
8 the -- you know, the specifics.

9 Q. Who did Sibyl report to?

10 A. Me.

11 Q. So who made the decision to remove her
12 as the director of OPMOM?

13 MS. LIPPMAN: Objection.

14 A. It's my understanding that it was the
15 general manager and the Chair.

16 Q. Who would those two individuals be?

17 The names.

18 A. Michael Kelly as the general manager,
19 and Shola Olatoya.

20 Q. Now when you say it was your
21 understanding, what do you mean by that?

22 A. I was not involved in the
23 decision-making process.

24 Q. No. Just your understanding part, what
25 was -- what is your understanding based on?

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2

MS. LIPPMAN: I'm going to object to
the extent that the question calls for the
disclosure of attorney-client privilege
information.

6

So if you could answer the question
without disclosing any conversation with
counsel please do.

9

A. Can you repeat the question?

10

MR. FLORESTAL: I'll just have her read
it.

12

(Whereupon, the requested portion of
the record was read back.)

14

A. I was informed, you know, by the
general manager that Sibyl would be replaced.

16

Q. What exactly did he say to you?

17

A. The -- I don't recall the exact, you
know, conversation, but more or less that they had
recruited somebody who had successfully implemented
asset management at two other Housing Authorities,
and they had an opportunity to bring her on board,
and they wanted to take advantage of that
opportunity.

24

Q. What was your response?

25

A. I was surprised.

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2 Q. Why were you surprised?

3 A. Because I wasn't involved in the
4 decision-making process, and wasn't aware that that
5 was going on.

6 Q. Does the general manager normally make
7 decisions without -- decisions about OPMOM without
8 informing you?

9 MS. LIPPMAN: Objection.

10 A. The -- I don't know.

11 Q. At what point did the general manager
12 inform you he would remove Sibyl Colon?

13 A. It was sometime in August. I can't
14 recall the exact date.

15 Q. Did he say who he would be filling the
16 position with?

17 A. Yes.

18 Q. Who was that?

19 A. Janet Abrahams.

20 Q. Did he say who Janet Abrahams was?

21 MS. LIPPMAN: Objection.

22 A. Yes.

23 Q. What did he say?

24 A. She was with Newark Housing Authority.
25 I forgot -- I don't know her exact title, but she

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2 ran operations there, and she had formally dealt in
3 a similar position at the Chicago, you know, Housing
4 Authority.

5 Q. So it's your testimony that Janet
6 Abrahams was brought in to replace Sibyl Colon?

7 MS. LIPPMAN: Objection.

8 A. Yes.

9 MR. FLORESTAL: Can we take another
10 break? I just want to take a five-minute
11 break.

12 MS. LIPPMAN: Sure. Five minutes is
13 fine. If we could keep an eye on the time.
14 Mr. Kelly will be here at one.

15 (Whereupon, a lunch break was taken at
16 12:14 p.m.)

17 (Back on the record at 12:55 p.m.)

18 (Whereupon, the requested portion of
19 the record was read back.)

20 Q. Just so we're clear, Mr. Clarke, is
21 that your position or is that NYCHA's position?

22 MS. LIPPMAN: Objection.

23 I'm sorry, was that one of the topics?
24 Which number?

25 MR. BENNETT: It's number three.

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2 (Back on the record.)

3 (Whereupon, the requested portion of
4 the record was read back.)

5 A. NYCHA's understanding.

6 Q. What was your understanding?

7 A. I wasn't -- like, I wasn't involved in
8 the decision process or had any input to it, but the
9 way that I understand it is that Janet had
10 successfully implemented two other challenging, you
11 know, Housing Authorities; and that she was
12 recruited, you know, by the agency to come in and
13 really implement asset management, you know, for the
14 agency.

15 Q. What was your opinion of that decision?

16 MS. LIPPMAN: Objection.

17 A. Well the -- so, you know, a couple of
18 reactions, but one is I knew of Janet. I've done a
19 tour of Newark Housing Authority a couple of years
20 prior, and was very impressed with her and the
21 person that ran the Section 8 program, so I knew --
22 I was very impressed with the work that she had done
23 there, so when Mr. Kelly informed me, you know, of
24 that -- you know, of the decision I was -- so I knew
25 of her. I knew that they were getting somebody who

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2 successfully had done this, you know, on the

3 national stage. Right? You know, two very

4 challenging Housing Authority agencies, but I was

5 also surprised, because I hadn't been consulted or

6 provided any input, wasn't aware that that was, you

7 know, being done; but I also -- and I asked, like,

8 if it was -- you know, if it was a final decision,

9 done deal, if there's any discussion on it, and I

10 was informed, you know, it was a done -- you know, a

11 done deal that -- and, you know, I understood why.

12 Because they really -- the Chair's, you know, vision

13 for the program was really to manage things

14 differently than the way that it had been done. She

15 wanted to really bring in somebody who had a really

16 different point of view, somebody who didn't have --

17 you know; wasn't brought up through, you know,

18 NYCHA, and, you know, frankly also someone like me

19 who had been with the agency for two decades, even

20 though I came from the outside, still was kind of

21 considered, you know, a long time NYCHA employee, so

22 the program was -- not only was Sibyl reassigned,

23 but the program was also moved out from under me.

24 Q. Did Mr. Kelly explain to you what he
25 meant by wanting OPMOM to be managed differently?

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2 A. What's that?

3 Q. Did Mr. Kelly explain to you what he
4 meant by wanting --

5 A. I don't remember the details -- you
6 know, all the details of the discussion, you know,
7 per se, but, you know, it was a different management
8 approach to the property rather than the traditional
9 type of NYCHA, and so wanted to bring in somebody
10 who had different experiences, you know, working at
11 the public Housing Authorities, as well as, you
12 know, implementing the asset management program.

13 Q. When you say you don't remember, did
14 you review any documentation prior to this
15 deposition to prepare?

16 MS. LIPPMAN: When he says he doesn't
17 remember what?

18 Q. Well, you just said you don't remember.

19 A. You're talking about -- you asked me
20 about a conversation, and, you know, the details of
21 the conversation. I don't understand word for word
22 what the -- I don't remember what the details were,
23 but -- and so that's what I was trying to explain to
24 you, but in general this is what was explained to
25 me.

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2 MS. LIPPMAN: I'm just going to object
3 that actually the topics regarding Janet
4 Abraham's hiring at NYCHA to lead the OPMOM
5 is topic number seven, and that is Michael
6 Kelly's topic. And I have the e-mail
7 actually that I sent you saying who would
8 testify each topics.

9 MR. FLORESTAL: Off the record for a
10 minute.

11 (Whereupon, an off-the-record
12 discussion was held at this time.)

13 (Back on the record.)

14 (Whereupon, the requested portion of
15 the record was read back.)

16 Q. So did Mr. Kelly explain to you what he
17 meant by he wanted to manage the program
18 differently?

19 A. So just -- I thought I had answered
20 that.

21 Q. I'm sorry, I'm just trying to be clear.
22 You might have.

23 A. Like I said, I don't remember word for
24 word, but in general what I understood is that they
25 were looking for somebody who had experience

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2 working, you know, in an agency other than NYCHA,
3 and working at a, you know, public Housing
4 Authority, having successfully implemented, you
5 know, asset management. Somebody who has a
6 different point of view; who wasn't, you know,
7 brought up through, you know, the -- who was brought
8 up the NYCHA ranks and how NYCHA manages properties.

9 Q. Mr. Clarke, did the OPMOM program
10 utilize a system called SLA?

11 A. Well the -- it's not a system.

12 Q. Please explain what it is?

13 A. So that's a statistic, that's a service
14 level average, is what it's called.

15 Q. Please explain what that is exactly?

16 A. So that's during any 30-day rolling
17 time period, depending upon what the measurable is,
18 what's open and what's closed during that 30-day
19 rolling time period.

20 Q. Now when you say "measurable," please
21 elaborate? What do you mean by "measurable"?

22 A. So for example, the work orders. You
23 know, so -- so it's a statistic used at any one
24 point in time, the performance of -- you know, it
25 could be an entity, could be an individual, could

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2 be, you know, a property, you know, a department,
3 etcetera. It's a metric. And for that
4 measurable -- so, for example, with service
5 requests, let's say, work orders, and we could talk
6 specifically about maintenance work orders, it's
7 during any 30-day time period the -- the age of the
8 open and closed work orders over that time period.

9 Q. Do you recall how OPMOM was performing
10 prior to Ms. Colon becoming the director in terms of
11 the SLA measurement?

12 MS. LIPPMAN: Objection.

13 A. So the -- we were, you know -- the --
14 so it depends. You know, like, the -- so you're
15 just talking specifically about SLA?

16 Q. Yes.

17 A. Because there were other measurables
18 for the overall program.

19 Q. Please talk about the other measurables
20 before you answer that first question.

21 A. Sure. So one of the approaches is
22 what's called a balance scorecard, so the areas that
23 we were looking really to kind of focus performance
24 and improve in were, you know, finance. One is, you
25 know, work orders. Also customer service. And the

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2 Q. Focusing your attention on the SLA.

3 Can you give me an example of what would a bad SLA
4 be, if you can?

5 MS. LIPPMAN: Objection.

6 A. So the goal was to have, you know, a
7 seven-day service level, so, you know, anything
8 above that is -- you know, you want to make sure you
9 have a plan in place to try and drive it down and
10 understand what are the underlying issues that's
11 contributing to that.

12 Q. Now when you say the goal was to have a
13 seven-day service level, is that specifically for
14 OPMOM?

15 A. No, that was for the entire agency.

16 Q. Do you recall what the OPMOM program's
17 SLA level was prior to Ms. Colon becoming the
18 director?

19 MS. LIPPMAN: Objection.

20 A. I don't know what the exact service
21 level was or which one, which measurable you're
22 talking about.

23 Q. You mentioned that the goal was a
24 seven-day level for the SLA. Was that your goal or
25 was that NYCHA's goal?

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2 A. That was the agency's goal.

3 Q. Did you have a goal, you personally?

4 A. I have lots of goals.

5 Q. In reference to the SLA?

6 A. Yeah. What you want to do is you want
7 to have constant approval.

8 Q. Now we're talking about you, you as a
9 director?

10 A. I want constant improvement. You know,
11 the agency is, you know, a challenged agency.
12 Right? Ageing infrastructure, not enough, you know,
13 operating funds or capital funds to, you know,
14 fully, you know, support and manage the properties
15 the way they should, and so what we wanted to do was
16 try and prove from where we were, so we wanted to
17 try and get -- you know, a constant improvement is
18 what we wanted to do, so my goal was constantly to
19 improve. The overall goal was seven days and I
20 wanted to make sure we were moving in that
21 direction.

22 MR. FLORESTAL: We have another
23 exhibit.

24 (Whereupon, a series of e-mails was
25 marked as Plaintiff's Exhibit 4 for

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2 Q. It says, "Optimal property management
3 operating model OPMOM, balance scorecard." Do you
4 know what that is referring to?

5 MS. LIPPMAN: Objection.

6 A. Yes.

7 Q. What is it referring to?

8 A. It's referring to, what we call, the
9 balance scorecard for various metrics that we have
10 for measuring the performance of a property.

11 Q. Is that indicating that it's on the
12 agenda?

13 MS. LIPPMAN: Objection.

14 A. Yes.

15 Q. And below balance scorecard I see Fix
16 It Forward, my NYCHA app, real-time repairs. Do you
17 know what that indicates?

18 A. Yes, I do. Just give me a moment to
19 try and recollect.

20 MS. LIPPMAN: I'm just going to object
21 to that.

22 Q. Take your time.

23 A. Okay, yeah. So Fix It Forward was one
24 of the initiatives that we had for trying to, you
25 know, complete entire repairs. What I mean by that

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2 is there's different types of repairs, depending
3 upon complexity. Simple repairs only require a
4 maintenance worker. More complex can require
5 multiple trades, and this is -- to the best of my
6 recollection this was -- Fix It Forward was an
7 attempt to try and complete the entire repair as
8 quickly as we can, because the first visit to a
9 service request for most of the work order types was
10 a maintenance worker, and they may go there and they
11 may be able to make a simple repair or it may
12 require skill trades, so the -- so this was an
13 attempt to try and get all those repairs in a
14 shorter amount of time.

15 Q. How is that different from the balance
16 scorecard?

17 MS. LIPPMAN: Objection.

18 A. Well the balance scorecard is more or
19 less a metric report. Fix It Forward was an
20 initiative to actually, you know, improve the, you
21 know, the work process.

22 Q. So does the balance scorecard measure
23 performance in the Fix It Forward initiative?

24 MS. LIPPMAN: Objection.

25 A. No.

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2 at 18 pilot developments are supported in building
3 their own budgets and determining staffing needs
4 with the goals of decreasing maintenance times and
5 improving customer service." And it lists Brooklyn,
6 and it lists the Bronx, and Manhattan. Under Bronx
7 and Manhattan it has Mill Brook, Patterson, Mott
8 Haven, Mitchel, Melrose, East River,
9 Wilson/White/Metro North, Jefferson, Wagner, and
10 Lincoln. And the Brooklyn it reads, Howard, Tilden,
11 Seth Low, Langston Hughes, Woodson, Unity Plaza, Van
12 Dyke, and Brownsville. Effective September 28, 2015
13 Janet Abrahams has been appointed as the new vice
14 president for operations overseeing OPMOM.

15 My first question is: Did the OPMOM
16 program have any Brooklyn properties --

17 MS. LIPPMAN: Objection.

18 Q. In --

19 MR. FLORESTAL: Can I finish my
20 question, please.

21 Q. Did the OPMOM program have any Brooklyn
22 properties under Sibyl Colon?

23 MS. LIPPMAN: Objection.

24 A. Yes.

25 Q. It did. Which Brooklyn properties did

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2 it have?

3 A. So as the director, you know, all the
4 properties are under her supervision, you know,
5 under her leadership, so there's regional asset
6 managers who have, you know, different areas, so
7 there was a regional asset manager for Brooklyn,
8 there was one for the Bronx, and there was one for
9 Manhattan.

10 Q. Do you recall the properties that were
11 under OPMOM while Sibyl Colon was the director?

12 MS. LIPPMAN: Objection.

13 A. Yes.

14 Q. What were they?

15 A. Well this is the list right here.

16 Q. All of them?

17 A. Yeah. I mean, some of these are
18 consolidated, so they have some smaller developments
19 associated with them, but don't have a management
20 office, but these are really where the management
21 offices are and what we consider to be, you know,
22 the properties per se.

23 Q. So looking at these properties does the
24 SLA metric take into account all the properties as a
25 whole or does it distinguish between properties?

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2 21.5 days in January 2015 to 7.5 days in August
3 2015." So it's actually looking from January to
4 August; am I correct?

5 MS. LIPPMAN: Objection.

6 A. What they did is they looked at it
7 month to month. Like I said, it's a high-level
8 summary, so they're not putting all the statistics
9 in there. So as I said, certainly from what I'm
10 looking at here it looks like a positive indicator,
11 but I just want to put the caveat, it's always the
12 devil is in the details. For example, if a property
13 was at 7.5 in August, but they were at five in July,
14 you know, I wouldn't necessarily say that's
15 positive. But looking at this -- and as this report
16 and knowing how research presents information, I
17 would say this is positive. I just want you to be
18 aware of that.

19 Q. If a development was not performing up
20 to par would that not be reported in the report to
21 the board also?

22 MS. LIPPMAN: Objection.

23 A. This is a high-level summary
24 presentation, so it's not getting into the specifics
25 of each property, so this is just an overall

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2 Q. It refers to the time period that it's .
3 indicating, correct?

4 MS. LIPPMAN: Objection.

5 A. You're going you need to explain.

6 Q. I'll point it out to you.

7 MR. CARTER: Off the record.

8 (Whereupon, an off-the-record
9 discussion was held at this time.)

10 (Back on the record.)

11 Q. So the OPMOM program began in
12 January of 2015, correct?

13 A. No.

14 Q. When did it begin?

15 A. Sometime in 2014.

16 Q. I just want to refer you to the page
17 before that. The page before the one you're on
18 right now. Actually, at the very bottom it has an
19 11 at the bottom; do you see that?

20 A. Page 11, yeah.

21 Q. I'll just read it out loud. It says,
22 "OPMOM launched in January 2015, local property
23 managers at 18 pilot developments are supported in
24 building their own budgets and determining staffing
25 needs with the goals of decreasing maintenance times

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2 and improving customer service," correct?

3 A. Yes, that's what it says.

4 Q. So in essence this is indicating that
5 the OPMOM program was launched in January of 2015,
6 correct?

7 MS. LIPPMAN: Objection.

8 A. So, yes, it was launched into
9 operation, but there was preparation prior to that;
10 training for staff, putting together the project
11 plan, you know, for the program. So it wasn't just
12 throwing in a light switch, there was a lot of
13 preparation that was put into the program.

14 Q. I'm sorry if I was vague with my
15 question. My question for you was when it began?

16 MS. LIPPMAN: Objection.

17 A. So you need to --

18 Q. When did the OPMOM program begin?

19 MS. LIPPMAN: Objection.

20 A. So it began sometime in 2014. Right?
21 As a -- you know, as a pilot program for, as I
22 explained before, introducing, you know,
23 implementing true, you know, asset management into
24 the agency, so there was a lot of preparation work
25 done prior to January.

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2 Q. Then is it your testimony that these
3 minutes to the board are in fact invalid?

4 MS. LIPPMAN: Objection.

5 A. No. No, not at all. All I'm saying --
6 if I could just get to the point. You're saying --
7 you asked me when did the program begin. So it
8 began in 2014, but it went to full-scale operation
9 where they are actually measuring performance in
10 January. They wanted to kick it off in the
11 beginning of the year, but there was months, and
12 months, and months of preparation for the program;
13 training for staff, project plan. You know.

14 Q. So who was the director of OPMOM in
15 2014?

16 A. So for a portion of it, it was Kevin
17 Norman.

18 Q. What was his title?

19 A. He was director of OPMOM.

20 MR. FLORESTAL: Just for the record,
21 we'll request -- well, I'm sorry, off the
22 record.

23 (Whereupon, an off-the-record
24 discussion was held at this time.)

25 (Back on the record.)

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2 MS. LIPPMAN: Objection.

3 MR. FLORESTAL: Fair question.

4 Q. How are these statistics calculated?

5 It's a fair question. If you know?

6 A. You know, the statistics -- you know,
7 these are all basically, you know, math calculations
8 by the research department, so they're using
9 information data that's in our systems, in our work
10 order system, in this case our Maximo system, to
11 provide statistical data on performance.

12 Q. So a measurement from -- what sort of
13 data would be used to measure apartment turnaround
14 time from January to August?

15 MS. LIPPMAN: Objection.

16 Q. If you know?

17 A. So they're going to look at the date
18 that an apartment was vacant to the date that the
19 apartment was occupied.

20 Q. Do they look at these days month by
21 month?

22 MS. LIPPMAN: Objection.

23 A. No. The dates are calculated cross
24 months.

25 Q. What does that mean?

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2

Q. The second one, "Manager engages resident leadership on key decisions"; do you see that?

5

A. Yes.

6

Q. Who is the manager -- do you know who the manager is that this goal is referring to?

8

A. Property manager.

9

Q. To your knowledge, did Ms. Colon meet that goal?

11

MS. LIPPMAN: Objection.

12

A. I -- so -- I would say, no.

13

Q. Why would you say no?

14

A. Because she was there a relatively short amount of time. We had -- there were some resident leadership that was engaged, had a very good relationship with their property managers, and there's others that weren't; and then also on top of this, this was during the summertime, when it's difficult to have -- you know, June, July, and August, it's difficult to have well attended TA meetings and getting meetings with the resident leadership, so I know that there were some properties that had good relationships, and then others there were not; and as far as the key

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2 decisions, I did receive a lot of complaints that
3 resident leaders felt that they were sold a bill of
4 goods. That they were told that they were going to
5 be involved in key decisions and things like that,
6 and that didn't happen.

7 Q. Now when you say you received a lot of
8 complaints, how were those complaints received?

9 A. So they came in from the TA leaders
10 themselves. Just to put it into context, you know,
11 this was during Sibyl's, you know, time there as
12 well as, you know, predating her as well, and even
13 for a little bit of time after that.

14 Q. Were these complaints via e-mail? How
15 were they transmitted to you?

16 A. Mostly would be phone calls or at
17 meetings. We would periodically meet with the TAs
18 from the properties, and that was the feedback. You
19 know, there was some that was good, and some that
20 was not good.

21 Q. Are there any documentary evidence of
22 these complaints?

23 MS. LIPPMAN: Objection.

24 A. I don't know. I don't know.

25 Q. Now when you say, "I don't know," are

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2 you answering for yourself or are you answering on
3 behalf of NYCHA?

4 MS. LIPPMAN: Objection.

5 A. So I am answering on behalf of myself.
6 And then let me clarify. I know that we had
7 resident surveys and things along those lines
8 through their research department on the program. I
9 don't think -- I think that was really put in place
10 I think -- might have been after Sibyl. I don't
11 know if it was during that time frame, but we would
12 get feedback that way, from how it overall was
13 performing. From a -- that was one of the points.

14 Q. Would those complaints be a factor in
15 her work performance?

16 A. The complaints -- so you're talking
17 about a three-month period. Right? Where, you
18 know, you have 18 developments and, you know, to say
19 that the managers were engaged in key resident
20 leadership decisions, you know, certainly during her
21 time there that was not the case. And as I said,
22 when we did meet with resident leaders there were
23 some that were really happy about the program and
24 were into it, and other folks that did not feel that
25 they were engaged and that things had improved, so

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2 it was a mixed bag.

3 Q. I'd like to focus on NYCHA's position
4 on this. So my question to you is: The complaints
5 that you just testified to, did they reflect on her
6 work performance?

7 MS. LIPPMAN: Objection.

8 Which topic is this now? I'm sorry,
9 I'm lost. Because you asked him NYCHA's
10 position. I'm just looking at the topics.
11 Which one is it? Which topic is that?

12 MR. FLORESTAL: Work performance as
13 director of optimal management department.

14 MS. LIPPMAN: Can I have the question
15 read back?

16 (Whereupon, the requested portion of
17 the record was read back.)

18 MS. LIPPMAN: Okay, got it.

19 A. So, yeah. I mean, like, you know,
20 overall that's one of things that we're looking at,
21 is whether or not -- you know, resident engagement.
22 We were certainly trying to improve customer service
23 at the properties. One of the things was resident
24 feedback, and also wanting to engage the residents
25 in, you know, key decisions about developments, and

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2 that certainly didn't happen, you know, during
3 Sibyl's time there. As I said, it was three months.
4 The program was early on rolling out, and it was one
5 of the criticisms of the program that I did hear
6 from resident leadership.

7 Q. Which resident leadership did you hear
8 that from?

9 A. Let me see if I can remember. I can't
10 remember the names of folks.

11 Q. Do you remember the developments?

12 A. Well Mill Brook.

13 Q. Mill Brook?

14 A. Yeah.

15 Q. Let's talk about Mill Brook.

16 MS. LIPPMAN: Do you want him to finish
17 his answer?

18 A. I was actually trying to recollect
19 which ones we heard from.

20 Q. Okay.

21 A. I know Lincoln houses. If I could look
22 at the list, maybe that will help me.

23 Q. Sure.

24 A. East River, yeah. I mean, like I said,
25 I can't remember the specifics. Mitchel. I mean, I

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2 know like most of the Bronx and many of the
3 Manhattan were not happy, and I think Tilden, I
4 think Seth Low.

5 Q. Just to make things easier on you, as
6 you go through the list and you're recollecting
7 please articulate what you're recollecting, so we
8 could go back to -- well, let's go with Seth Low.
9 What do you recollect --

10 A. I'm telling you in generalities, that
11 overall that piece of being engaged in key decisions
12 at the property did not feel like they were, you
13 know, getting that. That the resident engagement
14 piece was -- it was one of the criticisms of the
15 program certainly early on.

16 Q. What do you mean by "early on"? How
17 early on?

18 A. I would say after the, you know, first
19 few months, after the first year, you know, there
20 were some certainly complaints about that.

21 Q. When did Sibyl Colon --

22 A. And there were complaints during her
23 time, yeah. During June, July, and August. But as
24 I said, that's a more difficult time for resident
25 engagement, because of, you know, kids, people are

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2 away.

3 MR. FLORESTAL: Do we need a break?

4 (Whereupon, a short break was taken.)

5 (Back on the record.)

6 Q. Mr. Clarke, I'd like to focus your
7 attention on July 30, 2015. Do you recall a meeting
8 at the office of then Council Speaker Melissa
9 Mark-Viverito?

10 A. Yes.

11 Q. What can you tell us about that
12 meeting?

13 A. It was a meeting at the Council
14 Member's office that her office requested through
15 our department of intergovernmental relations,
16 because of issues at the Mill Brook houses.

17 Q. Do you recall who requested the
18 meeting, a name?

19 A. Brian Honan contacted me regarding the
20 meeting.

21 Q. Were you physically at the meeting?

22 A. No, I was not.

23 Q. Did you attend the meeting?

24 A. Via phone. I attended the meeting via
25 phone.

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2 Q. Was Brian Honan at the meeting?

3 A. Yes.

4 Q. Was Gloria Cruz at the meeting?

5 A. I don't know.

6 Q. Was Marcela -- I'm sorry?

7 A. I don't know. I don't recall.

8 Q. Was Marcela Medina at the meeting?

9 A. I don't know. I don't recall.

10 Q. Was Luis Ponce at the meeting?

11 A. No.

12 Q. Anybody else you could recall who was
13 at the meeting?

14 A. No.

15 Q. Do you recall what the issue was that
16 Council Speaker wanted to address at the meeting?

17 MS. LIPPMAN: Objection.

18 MR. CARTER: Objection.

19 A. Can you repeat the question?

20 Q. Do you recall why the Council Speaker
21 called the meeting? Did she explain?

22 MS. LIPPMAN: Objection.

23 MR. CARTER: Objection.

24 A. There were, you know, issues at the,
25 you know, Mill Brook property that she wanted to

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2 discuss with the -- you know, discuss with the
3 manager, you know, governmental; is, you know, the
4 reason why the meeting was called.

5 Q. What issues did she state?

6 A. So there were a couple of issues. One
7 issue had to do, in particularly, with an attendance
8 association meeting where tenants were not allowed
9 to speak in the language they were most comfortable
10 speaking. There were customer service issues with
11 the office, and there were also maintenance issues
12 with the property.

13 Q. Can you elaborate a bit more about the
14 customer service issues?

15 A. Sure. That the management office
16 wasn't responsive to resident complaints.

17 Q. What was the last issue you stated?

18 A. Maintenance. There were maintenance
19 complaints.

20 Q. What were the issues regarding
21 maintenance complaints?

22 A. I don't recall the specifics behind it,
23 but, you know, it's issues with apartments.

24 Q. Going back to the first issue that you
25 mentioned. I think you stated that residents were

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2 not allowed to speak in the language that they felt
3 comfortable?

4 A. Yeah. Specifically at a tenant
5 association meeting that was attended by the
6 manager, she -- the way that I understood it, she
7 told folks that not to speak to her or try to
8 communicate with her in Spanish. I think she said
9 something like "no mira, mira, mira here," kind of
10 in a derogatory way, and an offensive manner.

11 Q. Who said that? Who said no mira, mira
12 here?

13 A. The manager, Alison Williams.

14 Q. Who did she say that to? Do you recall
15 a name?

16 A. I do not recall a name.

17 Q. How long did that meeting last?

18 A. I don't recall.

19 Q. Did the Speaker request that you remove
20 the manager at the Mill Brook houses?

21 A. No.

22 Q. Did anyone at the meeting request that
23 you remove the manager of the Mill Brook houses?

24 A. No.

25 Q. Did the speaker ever say at the meeting

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2 that I want a Spanish manager?

3 MR. CARTER: Objection.

4 A. No.

5 Q. Do you recall how the Mill Brook
6 houses -- do you recall what their SLA score was up
7 to at the time of the meeting?

8 A. No.

9 Q. Did you personally want to remove the
10 manager of the Mill Brook houses?

11 MS. LIPPMAN: Objection.

12 A. Can you please explain what you mean by
13 "remove"?

14 Q. Did you want her removed as the manager
15 of the Mill Brook houses and replaced with somebody
16 else?

17 MS. LIPPMAN: Objection.

18 A. So just to be clear, I wanted to
19 transfer her out of the OPMOM program, so thereby,
20 you know, transferring her as the manager at Mill
21 Brook houses; from being manager at Mill Brook
22 houses to another location.

23 Q. Why did you want to do that?

24 A. Because Alison was -- I'm trying to use
25 the right, you know, correct professional term --

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2 was not a good manager. Her performance, certainly

3 while I was involved with the program, was not good.

4 She was never prepared for meetings, she never had a

5 corrective action plan for whatever the issue was,

6 and frankly I just thought it was just unbelievable

7 that a property manager would ridicule tenants

8 because of their inability to speak English, and

9 violate a Mayoral order for language access for city

10 services at a public meeting. That was the straw

11 that really kind of broke the camel's back for me.

12 This program, the optimal property management

13 program, was supposed to be the vanguard of how we

14 were going to change the way that we were going to

15 manage our properties. Customer service, resident

16 engagement was a key part of that, and for a manager

17 to tell somebody who is limited English speaking

18 that, you know, don't communicate with me, you know,

19 at a public meeting, that was just it for me, and I

20 wanted to have her removed from the program and then

21 also disciplined for what she did at that meeting.

22 Q. Was that also a violation of a NYCHA
23 policy?

24 A. So the -- I don't recall -- I
25 believe -- well it's a violation of a Mayoral order

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2 for language access.

3 Q. What order is that?

4 A. I think it's --

5 Q. We could look it up?

6 A. I think it's -- it was under Mayor
7 Bloomberg. The reason why I know this is because I
8 was -- one of the things I was responsible for was
9 putting in place a customer contact center, so the
10 call center, walk-in centers for NYCHA was one of
11 the projects that I had to implement. Language
12 access was a key element of that, you know, for
13 customer service and being able to communicate with
14 our tenants, with the public, with applicants.

15 That's why I'm familiar with it. And as I said,
16 Alison had multiple issues while manager of Mill
17 Brook, and that meeting there was really kind of, as
18 I said, the straw that broke the camel's back.

19 Q. So what is the process of removing a
20 manager?

21 MS. LIPPMAN: Objection.

22 A. So managers and superintendents don't
23 have transfer rights, so it's at the discretion of
24 the Housing Authority to transfer managers. So
25 provided that there's a vacancy available to move

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2 somebody in certainly you could recommend, you know,
3 transferring a manager -- you know, at least in my
4 position I could recommend transferring a manager to
5 another location.

6 Q. Who would you recommend transferring a
7 manager to? Who would you make that recommendation
8 to?

9 A. I would make it to the general manager,
10 you know, as well as I would have discussions with
11 human resources.

12 Q. Who would that be, who was the general
13 manager at the time?

14 A. Michael Kelly.

15 Q. And the human resources person, who
16 would that be?

17 A. Well the director of human resources
18 was Kenya Salaudeen, but there's different folks in
19 human resources that are involved in those types of
20 transfers. I can't remember the exact people that,
21 you know, execute it to put it in place.

22 Q. Did you, in fact, make that request to
23 Michael Kelly and Kenya Salaudeen?

24 A. So I discussed the recommendation with
25 Michael and I was going on vacation, and I asked

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2 Sibyl to work with human resources to transfer
3 Alison, you know, from the property. Really what I
4 wanted was her out of the program, and also to
5 follow up with the discipline on her.

6 Q. When you discussed the recommendation
7 with Michael what did he say?

8 A. You know, he was fine with it. He was
9 okay with it. He didn't object.

10 Q. When you discussed recommendation with
11 Kenya what did she say?

12 A. So as I said, the initial discussions
13 with human resources were with Sibyl, and I'm trying
14 to recall whether or not I had a discussion with
15 Kenya regarding it.

16 Q. You testified that you did, so are you
17 now testifying that you did not?

18 A. I did not testify that I had a
19 conversation.

20 MR. FLORESTAL: Oh, can you read that
21 back.

22 A. You asked me who's involved in transfer
23 process, and so if I could clarify for you. So it's
24 the human resources department and she's the
25 director of the department, but there's different

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2 folks that, you know, are involved that are in the
3 department, who you would contact regarding
4 transfers, so you got to make sure that, one, that
5 there's a vacancy available, that you could -- a
6 budget vacancy that someone can move in. You also
7 have to check to see if there is a civil service
8 list, because there could be -- you know, that
9 opening might be filled, there might have been a
10 candidate for that opening filled already, or you
11 need to see if somebody is coming back off of leave,
12 you know, to see if there is a spot to place the
13 manager.

14 Q. Did you discuss with Sibyl about the
15 reason for the transfer?

16 A. Yes.

17 Q. What did you discuss with Sibyl?

18 A. I explained that -- she knew well that
19 Alison was one our poorest performers, if not, our
20 poorest performers in the program, so I asked Sibyl
21 to contact human resources to -- you know, to get
22 the transfer in place to get that going.

23 Q. Does the manager of Mill Brook report
24 to a RAM?

25 A. Yes.

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2 they have civil service status in place. So the
3 other piece about transferring, that wasn't about,
4 you know, penalty, that was about the overall OPMOM
5 program, and I just did not feel that she was
6 suitable for the program.

7 Q. Was a verbal counseling given to
8 Ms. Williams?

9 A. The -- I don't know.

10 Q. Was a written counseling memo given to
11 Ms. Williams?

12 A. No.

13 Q. Do you know whether Ms. Williams had a
14 civil service title?

15 A. Yes.

16 Q. Do you recall what that was?

17 A. Property manager.

18 Q. How, if at all, did that prevent you
19 from removing her as the manager of Mill Brook?

20 MS. LIPPMAN: Objection.

21 A. I just want to clarify, it's
22 transferring her.

23 Q. Transferring, moving. I'm sorry.

24 A. So property managers don't have
25 transfer rights, so transfers can be at the

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2 discretion of management.

3 Q. Who would that be in this situation?

4 A. In this case I was recommending
5 transfer of Ms. Williams.

6 Q. Why did that not occur?

7 A. It didn't occur because it was
8 recommended to me not to transfer at this time.

9 Q. When you say "it," who's it? Is it a
10 person?

11 A. Law Department.

12 Q. Who did you speak with?

13 MS. LIPPMAN: Objection.

14 I'm going to instruct the witness not
15 to answer at this point, because the
16 disclosure of the information calls for
17 attorney-client privilege information.

18 MR. FLORESTAL: She's correct.

19 What number are we up to?

20 MS. LIPPMAN: Seven.

21 MR. FLORESTAL: Please mark this.

22 (Whereupon, a document was marked as
23 Plaintiff's Exhibit 7 for identification.)

24 (Whereupon, an off-the-record
25 discussion was held at this time.)

**ERRATA SHEET FOR THE DEPOSITION TRANSCRIPTS OF
BRIAN CLARKE**

RE: *Sibyl Colon v. The City of New York, et al.*, No. 16-CV-4540 (VSB)(OTW)
Allison Williams v. The City of New York, et al., No. 16-CV-8193 (VSB)(OTW)

DATES TAKEN: June 13, 2019 and July 1, 2019

June 13, 2019

PAGE	LINE NUMBER	CORRECTION	REASON
12	14	"Yes" should be, "Yes, although technically Sibyl reported to a Deputy Director, who reported to a Director who reported to me."	Clarification
17	14	"Yes" should be, "Yes, Shinay Jones."	Clarification
20	16-17	"we want to have a line to the overall agency's mission" should be "we want our goals to align with the overall Agency mission."	Typographical Error
21	16-19	"they're looking for, you know, 77 – you know, 70 percent direct, you know, expenses, you know, at the property, and then the 30 percent for administration, which could be supervisory" should be "they're looking for 70 percent direct expenses at the property and 30 percent administrative costs"	Clarification
29	2-4	"and the OPMOM position we did not fill from the internal and external, you know, posting" should be "and the OPMOM position we did not fill from the internal and external applicants who responded to the posting."	Clarification
35	18-19	"I thought she had actually been a borough administrator longer than what this reflects" should be "I thought she had actually ben a borough administrator longer than what this reflects, the OPMOM	Clarification

		Director position was a two-step promotion. I think the resume has her experience as an administrator at a little over a year."	
41	24	"request from" should be "request for"	Typographical Error
43	4	"there's customer service in the office" should be "there were customer services issues in the office"	Typographical Error
43	11	"issues" should be "issues are."	Typographical Error
44	23	"The intergovernmental" should be "Intergovernmental"	Typographical Error
50	13	"That's not my understanding" should be "That's not my understanding. She was not fired."	Clarification
53	13	"It was sometime in August" should be "It was sometime in August 2015."	Clarification
54	2	"she had formally dealt in" should be "she had formally held or served in"	Typographical Error
56	10	"successfully implemented two other" should be "successfully implemented asset management in two other"	Clarification
56	18	"I've done" should be "I did"	Clarification
58	21	"I don't understand word for word" should be, "I don't remember word for word"	Clarification
61	22	"balance scorecard" should be "balanced scorecard"	Typographical Error
65	7	"constant approval" should be "constant improvement."	Typographical Error

65	16	"try and prove" should be "try and improve"	Typographical Error
74	19	"So there's a point in context" should be "So there's a point in context, I need a reference point."	Clarification
81	12-14	"so this was an attempt to try and get all those repairs in a shorter amount of time" should be "so this was an attempt to try and get all those repairs in a shorter amount of time. I assigned Fix It Forward to the OPMOM Properties, particularly those in the Bronx, to improve the SLAs for maintenance and skilled trades. It's one of the reasons that the Mott Haven SLA was reduced per Sibyl's emails."	Clarification
81	25	"No" should be "Yes, the Fix It Forward initiative helped improve the OPMOM service levels."	Correction, witness later recalled correct information
85	6	"When you're dealing with averages, right?" should be "When you're dealing with averages, right?" These reports are high level averages. The Brooklyn properties under Octavia Hayward really helped to improve the overall SLA for the OPMOM program; these properties were the best performers. Sibyl had the least involvement in these areas."	Clarification
93	12	"throwing in a light switch" should be "throwing on a light switch"	Typographical Error
94	10	"January" should be "January 2015."	Clarification
100	22-23	"So you would measure – days vacant? How many days an apartment is, you know, vacant?" should be "So you would measure – days vacant. How many days an apartment is, you know, vacant."	Typographical Error

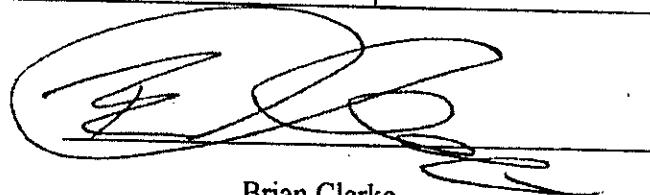
102	19	"Yes" should be "Yes, but the apartment prep time includes only those apartments already prepped. There could be vacant apartments that were not yet prepped, and apartment prep time would not include those apartments."	Clarification
135	7-8	"in particularly, with an attendance association meeting" should be "in particular, with a tenants association meeting at Mill Brook Houses"	Typographical Error/Clarification
138	3	"involved with the program" should be "involved with the OPMOM program"	Clarification

JULY 1, 2019

PAGE	LINE NUMBER	CORRECTION	REASON
6	11	"balance score card" should be "balanced score card"	Typographical Error
8	15	"balance score card" should be "balanced score card"	Typographical Error
8	20-21	"Yeah, this is a balance scorecard for the OPMOM program" should be, "This is a balanced scorecard for the OPMOM program, it reflects OPMOM on a high level average; it does not reflect the performance of individual properties. The Brooklyn Properties managed by Octavia Hayward heavily influenced these numbers, and additional resources were assigned to the properties by me in order to try different management approaches and improve the performance of the program."	Clarification
11	10	"Yes" should be "Yes, it shows a high level average; doesn't reflect the performance of individual properties;	Clarification

		and it was influenced heavily by the performance of the Brooklyn properties and the additional resources I assigned.”	
12	18	“I think it says Priscilla” should be “I think it says Princella.”	Typographical Error
13	10	“Priscilla” should be “Princella”	Typographical Error
13	21-23	“Would that surprise you yes, and I said yes and no, because she’s a very nice person” should be “Would that surprise you yes, and I said yes and no, because she’s a very nice person. Princella didn’t want to make trouble for the Manager; also, Princella also had the approach that it’s better to deal with the devil you know than the devil you don’t.”	Clarification
16	12	“residence” should be “residents”	Typographical Error
18	21-24	“Because the service – the customer contact center, at least when I was there, would get hundreds and thousands of repair requests” should be ““Because the service – the customer contact center, at least when I was there, would get hundreds and thousands of repair requests. One of the reasons we created the Customer Contact Center was to create a transparent and unbiased process for service requests.”	Clarification
33	16	“ -- for my properties regularly?” should be “I reviewed OPMOM SLAs regularly for the approximately 8 months I supervised the OPMOM program.”	Clarification
43	23	“those numbers” should be “those numbers. And again, these are high level averages that do not reflect the performance of individual properties;	Clarification

		the Brooklyn properties carried this statistic and my decision to assign additional resources helped the overall statistical performance of the property.”	
53	4	“Coffman” should be “Kaufman, she married around this timeframe”	Typographical Error/Clarification
54	21	“evaluating” should be “evaluate”	Typographical Error
59	11	“late August” should be “August”	Correction
68	12	“Sibel” should be “Sybille”	Typographical Error
72	16	“Emerson” should be “Edmonson”	Typographical Error
81	21	“I don’t know” should be “I don’t know, but she did not comply with the Mayoral Order regarding language access.”	Clarification



Brian Clarke

Subscribed and sworn to before me

this 23 day of September, 2019

MICHAEL SHAWN MEENAGHAN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01ME4902301
Qualified In Kings County
Commission Expires November 19, 2022



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
SIBYL COLON,

Plaintiff,

CV-16-04540 (VSB)

-against-

THE CITY OF NEW YORK, et al.,

Defendants.

-----x
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALLISON WILLIAMS,

Plaintiff,

CV-16-08193 (VSB)

-against-

THE CITY OF NEW YORK, et al.,

Defendants.

-----x
(Continued on the following page.)

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7 CONTINUED DEPOSITION of THE DEFENDANT
8 NEW YORK CITY HOUSING AUTHORITY by BRIAN CLARKE,
9 taken by the Plaintiff in the First Action,
10 pursuant to Court Order, held at the offices of
11 offices of Florestal Law Firm, PLLC, 48 Wall
12 Street, 11th Floor, New York, New York on July 1,
13 2019, at 1:09 p.m., before Christopher Aspromonte,
14 a Shorthand Reporter and Notary Public for the
15 State of New York.

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2 APPEARANCES:

3

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10

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17 NEW YORK HOUSING AUTHORITY

18 Attorneys for Defendants NYCHA, Michael Kelly

19 and Witness Brian Clarke

20 250 Broadway

21 New York, New York 10007

22 BY: JANE E. LIPPMAN, ESQ.

23

24 Also Present:

25 SIBYLN COLON

1 B. CLARKE
2 the -- the issues and concerns of the
3 property would be escalated up, that's
4 something a manager is having an issue with.

5 Q. So, the best case scenario I
6 guess in regards -- with respect to what you
7 just said, hopefully, so the best case
8 scenario would be that a RAM would have
9 knowledge of that nature?

10 MS. LIPPMAN: Objection.

11 A. This whole piece is confusing to
12 me.

Q. What's confusing about it?

14 A. First off, I don't know what
15 timeframe they are talking about, right.

16 And then the other is that the budgets, the
17 lines are set at the property. And in this
18 case for the OPMOM properties, they had the
19 opportunity to identify the needs that they
20 had at the property and put into the budget
21 the number of positions they felt they
22 needed by -- by title.

23 And so that's why -- you know
24 this talk of additional housing staff kind
25 of, you know, surprises me, you know, about

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2 that we can, you know, get that
3 development up to par."

4 Do you agree with that statement?

5 MS. LIPPMAN: Objection.

6 Q. That the development-- that the
7 Mitchell -- the Millbrook Houses didn't have
8 the proper staffing?

9 MS. LIPPMAN: Objection.

10 A. I have no timeframe or reference
11 for this -- you know for this statement.

12 And as I explained to you
13 before, as I previously testified, the
14 budget, the staffing levels, the number of
15 positions, the housing manager had the
16 discretion to set up their property, you
17 know, for the number of positions that they
18 felt they needed, you know, for the
19 properties in OPMOM program.

20 Q. Are you saying Mr. Artis is
21 lying?

22 MS. LIPPMAN: Objection.

23 A. I have no idea what he's talking
24 about here. You asked me whether I agree or
25 disagree with the statement, and I am just

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1 B. CLARKE

2 given to the City Council, correct?

3 MS. LIPPMAN: Objection.

4 A. Yes, I believe.

5 Q. Mr. Clarke, in your opinion,
6 just summarize: Repair times trending
7 downwards with average service level time of
8 5.5 days, would that be a good thing or a
9 bad thing for OPMOM?

10 MS. LIPPMAN: Objection.

11 A. So, overall that would be a good
12 thing, which you need to understand is all
13 the different resources that go into that.

14 For example, on this sheet here
15 real time repairs, one-call initiative was
16 launched at OPMOM locations, which these are
17 additional resources which helped overall
18 with the program.

19 With OPMOM we were trying out
20 different things to overall improve the way
21 that we manage the properties. So, you know
22 these things here also helped to drive down
23 those numbers.

24 Q. Got it. Thank you. You need a
25 break?

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July 1, 2019

1 B. CLARKE

2 reporter.]

3 A. Yeah, so the -- you know, like I
4 said I don't know the word-for-word
5 specifics we discussed, but in general, for
6 example, for the IG investigation, you know,
7 because this was also a disciplinary action.
8 We wanted Allison Williams to be disciplined
9 as well.

10 I reached out -- I noted I spoke
11 to Sibyl about that, and she mentioned
12 something about an investigation into. So I
13 contacted, because this is disciplinary --

14 Typically, with Inspector
15 General type of investigations, they won't
16 necessarily tell you exactly what they are
17 doing.

18 But because of the fact that we
19 wanted to discipline an employee, I reached
20 out to them to find out if there indeed was
21 an investigation that would prevent us from
22 disciplining. And they told me that there
23 was not an investigation into, specifically,
24 you know, Ms. Williams.

25 And I know that I had follow-up

1 B. CLARKE
2 discussions with Human Resources regarding
3 the transfer of Allison Williams.

4 Q. So, are you stating that the IG
5 told you that there was not an investigation
6 with respect to Alison Williams?

A. They were not investigating Alison Williams.

9 Q. Okay. And do you recall the
10 date when you were told that?

11 A. It's sometime in late August, I
12 don't know the specifics.

13 Q. Of 2015?

14 A. Yes.

15 MR. FLORESTAL: Mark this.

16 (Whereupon, Plaintiff's
17 Exhibit 14, a copy of an E-mail from
18 Sibyl Colon dated Tuesday August 25th
19 2015 was hereby marked for
20 identification, as of this date.)

21 Q. Mr. Clarke, you've just been
22 handed what has been marked as Plaintiff's
23 number 14. Please take a look at it and
24 look up when you are done. Okay.

25 | What is Plaintiff's Exhibit 14?

1 B. CLARKE

2 question?

3 MR. FLORESTAL: Your client was
4 looking down. So, I thought he was
5 refreshing his recollection.

6 Q. So, it states right here there
7 was an active investigation, IG
8 investigation being conducted on Allison
9 Williams; is that correct?

10 MS. LIPPMAN: Objection.

11 A. It says:

12 "James was contacted by the IG's
13 office and was told they were
14 conducting an active investigation on
15 the manager, and to hold off on any
16 further actions."

Q. Did you respond to this E-mail?

18 A. I know that I met with the
19 Inspector General who told me that they
20 were -- there was not an investigation into
21 Ms. Williams.

22 MS. LIPPMAN: Let the record
23 reflect that the deponent is
24 discussing information with -- he can
25 tell what he asked. Go ahead.

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1

B. CLARKE

2

THE WITNESS: Sure. I mean the

3

IG was conducting an investigation of
tenants at the property. It was not
of Ms. Williams. And they had no
issues with a disciplinary action
against her. And, in fact, it added
that they had less than a favorable
experience working with her.

10

Q. I'd like you to -- I'll fast
forward. The e-mail reads:

12

"Brian: Disciplinary actions
will be addressed this week. Alfred
Rowlins, customer care plan, was
developed with the assistance of HR.
He was enrolled in a series of
courses that are offered by DCAS, it
has been paid for already. One class
was in August and three more were
scheduled for September."

21

Who was Alfred Rowlins?

22

A. He was the manager at Wagner
Houses.

24

Q. And why were classes -- why was
he enrolled in classes in these series of

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1 B. CLARKE

2 | classes?

3 A. We had a -- a -- it was a
4 horrible experience for one of our tenant
5 families in the first floor apartment with
6 sewer backups. It was poorly handled at the
7 local level, at the regional asset level and
8 at the director level within the OPMOM
9 program.

I directed, as part of the follow-up to this, for a corrective action plan to be put in place for the manager who is Alfred Rowlins.

14 Q. Fast forward to the second
15 paragraph:

21 Do you see that?

22 A. Yes.

23 Q. What did Ms. Colon mean in
24 reference to the cultural needs of the
25 residents in order to transfer the manager

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July 1, 2019

1 B. CLARKE

2 A. Yes.

3 Q. Did you ever instruct Ms. Colon
4 to inform Ms. Emerson that you wanted to
5 remove Allison Williams from her position as
6 the manager of Millbrook Houses?

7 A. Can you repeat the question,
8 please.

9 Q. Did you ever instruct Ms. Colon
10 to speak to Marla Emerson about removing
11 Allison Williams as the manager of Millbrook
12 Houses?

13 A. I told her to speak to Human
14 Resources.

15 Q. Which Marla Emerson works for
16 Human Resources?

17 A. Yes.

18 Q. Do you agree with the testimony
19 that she gave when she was asked:

20 "Did she tell you why she needed
21 to remove Allison Williams from the
22 location?"

23 In which she responded:

24 "In reference to something that
25 happened at a meeting. I can't

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1 B. CLARKE

2 Q. That she was asked to remove
3 Allison Williams from her position in
4 reference to a meeting that took place?

5 A. I don't know the conversation
6 that Sibyl had with Marla on this. That's a
7 conversation that they had.

8 Q. Well, she was posed a question
9 did she tell you why she needed to remove
10 Allison Williams from that location?

11 A. Yeah, I don't know. I wasn't
12 privy to that conversation.

13 Q. What did you tell Sibyl? Why
14 did you tell Sibyl to remove Allison
15 Williams from her position?

16 A. I told Sibyl first off to
17 transfer. Okay, two things. One --

18 Q. Transfer and remove.

19 A. No transfer and remove are two
20 different things. One, to transfer her and
21 take disciplinary action against Allison
22 Williams. The transfer -- okay, is managers
23 do not have transfer rights.

24 So, at management's discretion
25 they can they can transfer employees. I

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1 B. CLARKE
2 asked Sibyl to contact HR, because all
3 transfers go through HR. And the reason why
4 is, one, we need to know whether or not
5 there is an open location to move her to.
6 There has to be a budget line. Two, you
7 know is somebody coming back from leave.
8 All right, is there somebody that's
9 imminently coming back from leave that may
10 cause a complication for us -- in order to
11 move it.

12 So whatever the -- I never ever
13 told Sibyl Colon to transfer Allison
14 Williams because she didn't speak Spanish.
15 That is an absolute -- that is not the
16 truth. I transferred her for performance
17 issues.

18 She had performance issues
19 before she got to the OPMOM program. She
20 went almost a year of training with that
21 program. She was a poor performing manager.
22 Never came to a meeting prepared, you know,
23 that I -- that I ran. And this was the
24 straw that broke the camel's back.

25 Q. Got it.

**ERRATA SHEET FOR THE DEPOSITION TRANSCRIPTS OF
BRIAN CLARKE**

RE: *Sibyl Colon v. The City of New York, et al.*, No. 16-CV-4540 (VSB)(OTW)
Allison Williams v. The City of New York, et al., No. 16-CV-8193 (VSB)(OTW)

DATES TAKEN: June 13, 2019 and July 1, 2019

June 13, 2019

PAGE	LINE NUMBER	CORRECTION	REASON
12	14	"Yes" should be, "Yes, although technically Sibyl reported to a Deputy Director, who reported to a Director who reported to me."	Clarification
17	14	"Yes" should be, "Yes, Shinay Jones."	Clarification
20	16-17	"we want to have a line to the overall agency's mission" should be "we want our goals to align with the overall Agency mission."	Typographical Error
21	16-19	"they're looking for, you know, 77 – you know, 70 percent direct, you know, expenses, you know, at the property, and then the 30 percent for administration, which could be supervisory" should be "they're looking for 70 percent direct expenses at the property and 30 percent administrative costs"	Clarification
29	2-4	"and the OPMOM position we did not fill from the internal and external, you know, posting" should be "and the OPMOM position we did not fill from the internal and external applicants who responded to the posting."	Clarification
35	18-19	"I thought she had actually been a borough administrator longer than what this reflects" should be "I thought she had actually ben a borough administrator longer than what this reflects, the OPMOM	Clarification

		Director position was a two-step promotion. I think the resume has her experience as an administrator at a little over a year."	
41	24	"request from" should be "request for"	Typographical Error
43	4	"there's customer service in the office" should be "there were customer services issues in the office"	Typographical Error
43	11	"issues" should be "issues are."	Typographical Error
44	23	"The intergovernmental" should be "Intergovernmental"	Typographical Error
50	13	"That's not my understanding" should be "That's not my understanding. She was not fired."	Clarification
53	13	"It was sometime in August" should be "It was sometime in August 2015."	Clarification
54	2	"she had formally dealt in" should be "she had formally held or served in"	Typographical Error
56	10	"successfully implemented two other" should be "successfully implemented asset management in two other"	Clarification
56	18	"I've done" should be "I did"	Clarification
58	21	"I don't understand word for word" should be, "I don't remember word for word"	Clarification
61	22	"balance scorecard" should be "balanced scorecard"	Typographical Error
65	7	"constant approval" should be "constant improvement."	Typographical Error

65	16	"try and prove" should be "try and improve"	Typographical Error
74	19	"So there's a point in context" should be "So there's a point in context, I need a reference point."	Clarification
81	12-14	"so this was an attempt to try and get all those repairs in a shorter amount of time" should be "so this was an attempt to try and get all those repairs in a shorter amount of time. I assigned Fix It Forward to the OPMOM Properties, particularly those in the Bronx, to improve the SLAs for maintenance and skilled trades. It's one of the reasons that the Mott Haven SLA was reduced per Sibyl's emails."	Clarification
81	25	"No" should be "Yes, the Fix It Forward initiative helped improve the OPMOM service levels."	Correction, witness later recalled correct information
85	6	"When you're dealing with averages, right?" should be "When you're dealing with averages, right?" These reports are high level averages. The Brooklyn properties under Octavia Hayward really helped to improve the overall SLA for the OPMOM program; these properties were the best performers. Sibyl had the least involvement in these areas."	Clarification
93	12	"throwing in a light switch" should be "throwing on a light switch"	Typographical Error
94	10	"January" should be "January 2015."	Clarification
100	22-23	"So you would measure – days vacant? How many days an apartment is, you know, vacant?" should be "So you would measure – days vacant. How many days an apartment is, you know, vacant."	Typographical Error

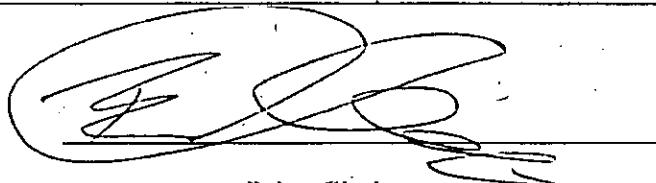
102	19	"Yes" should be "Yes, but the apartment prep time includes only those apartments already prepped. There could be vacant apartments that were not yet prepped, and apartment prep time would not include those apartments."	Clarification
135	7-8	"in particularly, with an attendance association meeting" should be "in particular, with a tenants association meeting at Mill Brook Houses"	Typographical Error/Clarification
138	3	"involved with the program" should be "involved with the OPMOM program"	Clarification

JULY 1, 2019

PAGE	LINE NUMBER	CORRECTION	REASON
6	11	"balance score card" should be "balanced score card"	Typographical Error
8	15	"balance score card" should be "balanced score card"	Typographical Error
8	20-21	"Yeah, this is a balance scorecard for the OPMOM program" should be, "This is a balanced scorecard for the OPMOM program, it reflects OPMOM on a high level average; it does not reflect the performance of individual properties. The Brooklyn Properties managed by Octavia Hayward heavily influenced these numbers, and additional resources were assigned to the properties by me in order to try different management approaches and improve the performance of the program."	Clarification
11	10	"Yes" should be "Yes, it shows a high level average; doesn't reflect the performance of individual properties;	Clarification

		and it was influenced heavily by the performance of the Brooklyn properties and the additional resources I assigned.”	
12	18	“I think it says Priscilla” should be “I think it says Princella.”	Typographical Error
13	10	“Priscilla” should be “Princella”	Typographical Error
13	21-23	“Would that surprise you yes, and I said yes and no, because she’s a very nice person” should be “Would that surprise you yes, and I said yes and no, because she’s a very nice person. Princella didn’t want to make trouble for the Manager; also, Princella also had the approach that it’s better to deal with the devil you know than the devil you don’t.”	Clarification
16	12	“residence” should be “residents”	Typographical Error
18	21-24	“Because the service – the customer contact center, at least when I was there, would get hundreds and thousands of repair requests” should be ““Because the service – the customer contact center, at least when I was there, would get hundreds and thousands of repair requests. One of the reasons we created the Customer Contact Center was to create a transparent and unbiased process for service requests.”	Clarification
33	16	“ - - for my properties regularly?” should be “I reviewed OPMOM SLAs regularly for the approximately 8 months I supervised the OPMOM program.”	Clarification
43	23	“those numbers” should be “those numbers. And again, these are high level averages that do not reflect the performance of individual properties;	Clarification

		the Brooklyn properties carried this statistic and my decision to assign additional resources helped the overall statistical performance of the property.”	
53	4	“Coffman” should be “Kaufman, she married around this timeframe”	Typographical Error/Clarification
54	21	“evaluating” should be “evaluate”	Typographical Error
59	11	“late August” should be “August”	Correction
68	12	“Sibel” should be “Sybille”	Typographical Error
72	16	“Emerson” should be “Edmonson”	Typographical Error
81	21	“I don’t know” should be “I don’t know, but she did not comply with the Mayoral Order regarding language access.”	Clarification

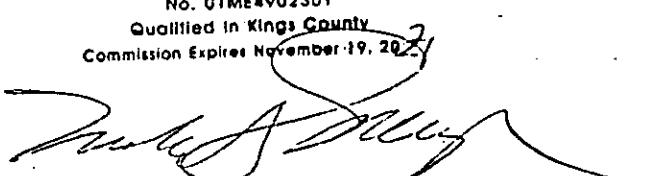


Brian Clarke

Subscribed and sworn to before me

this 23 day of September, 2019

MICHAEL SHAWN MEENAGHAN
 NOTARY PUBLIC-STATE OF NEW YORK
 No. 01ME4902301
 Qualified in Kings County
 Commission Expires November 19, 2024



Page 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

2 -----x
3 SIBYL COLON,

4 Plaintiff,

5 -against-

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7
8 THE CITY OF NEW YORK, NEW YORK CITY HOUSING
9 AUTHORITY, NEW YORK CITY COUNCIL SPEAKER MELISSA
10 MARK-VIVERITO, MICHAEL KELLY, and BRIAN CLARKE,
11 Defendants.

12 -----x
13 48 Wall Street
14 New York, New York
15 May 14, 2019
16 12:43 p.m.

17 EXAMINATION BEFORE TRIAL of MELISSA
18 MARK-VIVERITO, a DEFENDANT in the above-entitled
19 action, held at the above time and place, pursuant
20 to Order, taken before SEAN SAFFERSON, a shorthand
21 reporter and Notary Public within and for the
22 State of New York.

23
24
25

Page 2

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27 BY: JANE E. LIPPMAN, ESQ.

28

29

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Page 15

1 M. MARK-VIVERITO

2 A Well, I'm remembering it now because of the
3 complaint; I would not have remembered otherwise.

4 Q What do you recall? What do you recall
5 about that meeting, if anything?

6 A That the meeting was called by me, based on
7 complaints from constituents that their needs were
8 not being met. My Bronx office is literally a
9 stone's throw away from Mill Brook Houses, which
10 is one of the larger public housing developments
11 in south Bronx portion of the district that I
12 represented. So, very familiar, obviously, with
13 the constituents. I was very hands-on, very
14 visible in my district. And I got a lot of
15 constituents and residents from Mill Brook that
16 were coming physically to my office to ask for our
17 intervention, because they were complaining that a
18 Spanish speaking residents that their issues were
19 not being addressed by the management office at
20 Mill Brook. So, the staff raised this as a
21 growing issue; and so, we kept -- the staff kept
22 asking NYCHA to address these concerns, and at
23 that point, no changes were happening. So, I
24 requested a meeting with NYCHA.

25 Q Do you recall who the participants were at

Page 16

1 M. MARK-VIVERITO

2 the meeting?

3 A I don't recall. I do know on my staff
4 side, Gloria Cruz was there; Princella Jamerson
5 was there. I really don't know how to spell
6 Princella, but I think it's P-R-I-N-C-E-L-L-A --
7 Princella.

8 MR. FLORESTAL: I'm not sure either.

9 (Whereupon, a discussion was held off
10 the record.)

11 MR. CARTER: Back on the record.

12 Q So, Gloria Cruz, what exactly does Gloria
13 Cruz do for you?

14 A She --

15 MR. CARTER: Objection.

16 A She was managing constituent services in
17 the Bronx office.

18 Q What was her official title?

19 A I believe it was constituent services
20 liason.

21 Q And her responsibilities?

22 A She basically managed the Bronx office.
23 She was there day-to-day, and any constituent
24 issues or concerns -- she would handle any
25 walk-ins, follow up with city agencies, go to

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1 M. MARK-VIVERITO

2 community meetings.

3 Q Besides Ms. Cruz and Princella Jamerson, do
4 you recall if Brian Clarke was at the meeting in
5 any way, shape, or form?

6 A No.

7 Q Do you recall if -- do you recall if James
8 Artis (phonetic) was at the meeting?

9 A No.

10 Q Do you recall if a Sibyl Colon was at the
11 meeting?

12 A No.

13 Q Do you recall if an Allison Williams was at
14 the meeting?

15 A No.

16 Q Do you recall if a Marcella (phonetic)
17 Medina was at the meeting?

18 A No.

19 Q Did -- did you say Camela (sic) Jamerson
20 was at the meeting? Or did you not? Princella
21 Jamerson.

22 MR. CARTER: Objection.

23 A Yes.

24 Q Sorry. Just want to get that straight. Do
25 you recall for a Brian Honen (phonetic) was at the

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1 M. MARK-VIVERITO

2 meeting?

3 A I mean, no.

4 Q Besides Gloria Cruz, Ms. Cruz, did you have
5 any other person from your office at the meeting
6 besides Ms. Cruz?

7 A Diana Yana (phonetic) was there.

8 A-Y-A-L-A-U -- I think Diana -- Diana.

9 Q Was there another male individual from your
10 office there?

11 A I don't know.

12 Q And what was your purpose for initiating
13 this meeting, Council Speaker?

14 MR. CARTER: Objection.

15 Q What was your purpose there?

16 A It was to find out from NYCHA what they
17 were doing to address the concerns of the
18 Spanish-speaking residents of Mill Brook houses.

19 Q And did you address that issue with the
20 attendants of that meeting?

21 A Of course. I convened the meeting.

22 Q And please walk me through that. How did
23 you address that issue with the participants of
24 that meeting?

25 A So, as indicated earlier, Gloria Cruz is

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1 **M. MARK-VIVERITO**
2 responsible for the office -- made it clear to me
3 that there were many constituents,
4 Spanish-speaking residents of Mill Brook, that
5 were coming to us feeling that -- the concerns
6 that they had, whether it was repairs that they
7 needed or any other issues that were happen in
8 track with the management office, they were not
9 getting a Spanish-speaking -- not bilingual --
10 they were not feeling welcome in the management
11 office, and they were having a hard time
12 communicate. So, they would come to us, knowing
13 that our door is always open, knowing this that we
14 have fully bilingual staff. And so, the meeting
15 with NYCHA was to say that it was unsustainable
16 for our office to be serving as a de facto
17 management office for NYCHA -- that there were
18 needs that residents that our Spanish-speaking
19 had, and what was NYCHA doing to address the needs
20 of those residents.

21 Q And what was NYCHA's response to you?

22 MR. CARTER: Objection.

23 A I don't recall the exact interaction. They
24 were there to listen to my concerns.

25 Q You don't recall if they addressed your

Page 20

1 M. MARK-VIVERITO

2 concerns?

3 A I'm sure they did. I can't recall exactly
4 what was said.

5 Q Do you recall whether or not you made a
6 specific request to them?

7 MR. CARTER: Objection.

8 A My question was that there are needs that
9 the Spanish-speaking residents have that
10 management office is not addressing. How are you
11 going to address it? Clearly, there was a lack of
12 communication; there -- there needed to be
13 additional support.

14 Q Does everybody at your meetings introduce
15 themselves first?

16 MR. CARTER: Objection.

17 MS. LIPPMAN: Objection.

18 Q Did -- on July 30th, 2015, did the
19 individuals at your meeting introduce themselves
20 first?

21 A Most probably.

22 Q Do you recall what their titles were?

23 A No.

24 Q Council Speaker, are you familiar with
25 NYCHA's language bank?

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1 M. MARK-VIVERITO

2 A Not particularly.

3 Q Did you do you recall anybody at the
4 meeting explaining to you what the language bank
5 is?

6 A As a city legislator, it was clear that
7 city agencies did utilize Language Bank; but I
8 wasn't aware NYCHA did.

9 Q But it's your testimony that city agencies
10 utilize language banks; right?

11 A There was a familiarity that certain city
12 agencies. I couldn't tell you specifically which
13 ones, but that there are city agencies that would
14 access language bank.

15 Q Any reason -- do you think there's any
16 reason why NYCHA would not use a language bank?

17 MR. CARTER: Objection.

18 MS. LIPPMAN: Objection.

19 Q Do you recall making the statement, "I want
20 a Spanish manager?"

21 A No.

22 Q Did you have a proposal as to how to
23 address the needs of the Spanish-speaking
24 constituents of the Mill Brook Houses? Did you
25 come up with a proposal?

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1 M. MARK-VIVERITO

2 A The meeting's purpose was to express our
3 experience and that we had attempted on multiple
4 occasions to have the management office address
5 the concerns that the residents were raising.
6 They were raising that they fell unwelcome to the
7 management office; they felt that they were made
8 to feel ashamed if they did not speak English.
9 And that was consistent. It was not one or two
10 occurrences. This is reason for my intervention;
11 it was becoming a very prominent feature, and as I
12 mentioned, we were becoming a de facto NYCHA
13 office for Mill Brook -- for the Spanish-speaking
14 residents. So, that was going to be unsustainable,
15 and as a representative, I had to advocate for my
16 constituents that were making those expressions.
17 So, the meeting was to share what our experiences
18 had been, and obviously, since the management
19 office was not addressing those concerns, that was
20 the reason that we needed to have an additional
21 meeting with supervisors; again, what was NYCHA
22 going to do once this concern was being addressed
23 about the lack of responsiveness? What were they
24 going to do about it?

25 Q Let's talk about that for a minute. You

Page 23

1 M. MARK-VIVERITO

2 mentioned your constituents stated that they were
3 made to feel unwelcome. Can you explain what you
4 mean by that? What exactly made them feel
5 unwelcome?

6 MR. CARTER: Objection.

7 MR. FLORESTAL: If you know.

8 A What they were communicating -- my
9 understanding from Gloria, is the fact that they
10 did not speak English. So, there was an inability
11 to communicate.

12 Q So, is it your testimony, because they did
13 not speak English, they felt unwelcome? Or
14 somebody made them feel unwelcome because they did
15 not speak English?

16 MR. CARTER: Objection.

17 MR. FLORESTAL: I'm trying to get some
18 clarity.

19 A They were coming to us because the issue at
20 hand was not being addressed.

21 Q Well, right now, I just want to speak about
22 the unwelcome part.

23 A Right.

24 Q The statement that you made.

25 A The issue was not being addressed; that

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1 M. MARK-VIVERITO

2 would make them feel unwelcome. They came to us.

3 Q Just for clarity, I think there are
4 probably multiple issues there; just to clarify:
5 you said they would come to the office to get
6 certain issues addressed; correct? That's your
7 testimony, correct?

8 A Yes.

9 Q And in the process, they were made to feel
10 unwelcome; correct?

11 MR. CARTER: Objection.

12 MS. LIPPMAN: Objection.

13 MR. FLORESTAL: Well, if that's not
14 correct, then by all means, please state
15 so.

16 MR. CARTER: Objection.

17 Q I just want to get some clarity. You said
18 they were made to feel unwelcome; I just want to
19 understand how they were made to feel unwelcome,
20 if you know.

21 A They just expressed it because their issues
22 were not being addressed.

23 Q Okay. So, because their issues were not
24 getting addressed, that made them feel unwelcome
25 is what you're saying?

Page 25

1 M. MARK-VIVERITO

2 MR. CARTER: Objection.

3 MR. FLORESTAL: Well, I'm just getting
4 some clarity. No need to object; this is
5 just for clarity.

6 Q And "ashamed" -- you stated that they felt
7 ashamed of speaking Spanish, or that they didn't
8 speak English, rather; right?

9 A Yes.

10 Q Okay. I just, again, want to get some
11 clarity. How is it that they, if you know, were
12 made to feel ashamed for not speaking English?

13 MR. CARTER: Objection.

14 A They would come to us, because again, there
15 was a language barrier; and there was not an
16 ability for them to communicate. So, they would
17 feel, right -- that the only option they had was
18 to come to our office. That what was was being
19 communicated. They did not feel welcome, they did
20 not feel that the issues they were raising were
21 getting addressed; they weren't getting the
22 attention that they merited and NYCHA had a
23 responsibility to address that. So, the meeting
24 was to ask them to address how were they going to
25 ensure that the residents who are Spanish-speaking

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1 M. MARK-VIVERITO

2 and Spanish-dominant were getting their issues and
3 concerns addressed.

4 Q Okay. So, do you recall if the manager of
5 the Mill Brook Houses was present at the meeting?
6 Not the name, but whether or not that title was
7 present.

8 A I don't remember who was in the room on the
9 NYCHA side.

10 Q Yeah. But this is a meeting regarding Mill
11 Brook Houses; correct?

12 A Yes.

13 Q So, would it not be logical for the manager
14 of that development to be present?

15 MR. CARTER: Objection.

16 A You're asking for certainty?

17 Q Do not --

18 A I can't give you certainty. You're asking
19 me if I knew whether that title was in the room.
20 I can't recall.

21 Q Would it be safe to say you were trying to
22 effectuate some change at the meeting?

23 A I wanted NYCHA -- yes. I wanted NYCHA to
24 answer how they were going to address the concerns
25 that were being raised by constituents that I

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1 M. MARK-VIVERITO

2 represented.

3 Q All right. To effectuate the type of
4 change that you wanted, what types of people would
5 you meet? What -- yeah. What types of people
6 would have the authority to effectuate that
7 change, if you know?

8 MS. LIPPMAN: Objection.

9 MR. CARTER: Objection the.

10 Q At the NYCHA side.

11 A The purpose of the meeting, again, to raise
12 a concern that my office was experiencing -- was
13 to advocate on behalf of constituents that I
14 represented that felt that their needs were not
15 being addressed. The issue -- the purpose of the
16 meeting was to say, "this has been our experience;
17 we've been trying to get these issues addressed;
18 they have been not been addressed. What will
19 NYCHA do about it?" That was the purpose of the
20 meeting. So, the meeting was to share the
21 experience, tell NYCHA there was a problem, and
22 for NYCHA to figure out how to address it.

23 Q I understand that. You said --

24 A Exactly.

25 Q I understand that. I understand that

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1 M. MARK-VIVERITO

2 clearly. But what I'm trying to understand is who
3 you would be meeting with to effectuate that
4 change that you were looking for.

5 MR. CARTER: Objection.

6 MS. LIPPMAN: Objection.

7 A NYCHA made the decision of who was going to
8 be in the room; I don't know who that was. I
9 don't recall who that was.

10 Q Who did you speak with at NYCHA to set this
11 meeting up?

12 MR. CARTER: Objection.

13 A My staff sets up the meeting. I did not
14 make the call myself.

15 (Whereupon, the witness and her
16 attorney left the room.)

17 Q Back on. All right, Council Speaker.
18 Council Speaker, have you ever met with Michael
19 Kelly on any matters regarding NYCHA?

20 A He was the general manager; I probably
21 spoke to him, yes.

22 Q Have you ever spoken with Brian Clark on
23 any matters regarding NYCHA?

24 A I don't remember who he is.

25 Q Have you ever met with Shola Olatoye

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1 M. MARK-VIVERITO

2 regarding any matters involving NYCHA?

3 A Yes.

4 THE WITNESS: O-L-A-T-O-Y-E.

5 Q And how frequently would you meet up with
6 him, Ms. Council Speaker?

7 MR. CARTER: Objection.

8 MS. LIPPMAN: Objection.

9 MR. FLORESTAL: If you can recall.

10 A Not often.

11 Q My apologizes if I've already asked that
12 question, but do you recall anybody mentioning the
13 language bank to you at the July 30th, 2015
14 meeting?

15 A No.

16 MR. CARTER: Objection.

17 THE WITNESS: Sorry.

18 Q Ms. Council Speaker, did you ever refuse to
19 hire somebody because they were not the right
20 color?

21 MS. LIPPMAN: Objection.

22 MR. CARTER: Objection.

23 A No.

24 Q Did you ever hire somebody because they
25 were the right color?

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1 M. MARK-VIVERITO

2 MS. LIPPMAN: Objection.

3 A No.

4 Q Would you agree that that would be
5 prejudiced; correct?

6 MR. CARTER: Objection.

7 A Clearly.

8 Q Did you ever refuse to hire somebody
9 because they were not the right ethnicity?

10 MR. CARTER: Objection.

11 MS. LIPPMAN: Objection.

12 A No.

13 Q Did you ever hire somebody because they
14 were the right ethnicity?

15 MR. CARTER: Objection.

16 MS. LIPPMAN: Objection.

17 A No.

18 Q Once again, that would be prejudiced;
19 correct?

20 MR. CARTER: Objection.

21 MS. LIPPMAN: Objection.

22 A Clearly.

23 Q Do you agree that most African Americans do
24 not speak Spanish? The majority of Americans do
25 not speak Spanish?

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1 M. MARK-VIVERITO

2 MR. CARTER: Objection.

3 MS. LIPPMAN: Objection.

4 A No.

5 Q That the majority of African Americans do
6 speak Spanish?

7 MR. CARTER: Objection.

8 MS. LIPPMAN: Objection.

9 Q It's a question. In your opinion, do you
10 think the majority of African Americans speak
11 Spanish?

12 MR. CARTER: Objection.

13 MS. LIPPMAN: Objection.

14 A I don't make assumptions.

15 Q Just an opinion.

16 MS. LIPPMAN: Objection.

17 A (No response given.)

18 Q You don't know? Or --

19 MR. CARTER: Objection.

20 A I haven't seen any data on that issue.

21 Q Would you agree that the statement, "I want
22 a Spanish manager," would exclude people who don't
23 speak Spanish; correct? Would you agree with that
24 statement?

25 MR. CARTER: Objection.

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1 M. MARK-VIVERITO

2 MS. LIPPMAN: Objection.

3 A I would never use that term.

4 Q I know. But I'm just saying -- but would
5 would you agree that that statement, "I want a
6 Spanish manager," would exclude people who do not
7 speak Spanish?

8 MR. CARTER: Objection.

9 MS. LIPPMAN: Objection.

10 A No.

11 Q "I want a Spanish manager" would not
12 exclude people who do not speak Spanish?

13 MR. CARTER: Objection.

14 MS. LIPPMAN: Objection.

15 A I'm not following the question.

16 Q My question to you is: the statement, "I
17 want a Spanish manager," would that include people
18 who do not speak Spanish?

19 MR. CARTER: Objection.

20 MS. LIPPMAN: Objection.

21 A Let me -- I do not -- I do not use that
22 term.

23 Q I'm not saying you. That statement --

24 A When you say "a Spanish manager," it means
25 someone from Spain.

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1 M. MARK-VIVERITO

2 Q Someone from Spain?

3 A Yes.

4 Q "Spanish manager?"

5 A Yes.

6 Q Let's talk about that for a minute. So, "I
7 want a Spanish manager," to you, means what?

8 MR. CARTER: Objection.

9 A A Spanish person, to me, is a person from
10 Spain.

11 Q Is --

12 A I would never use the term "Spanish person"
13 to reference myself or to reference a Latino or to
14 reference a African American -- a Latino or Puerto
15 Rican person. That's not my terminology.

16 Q What term would you use to reference a
17 Latino person?

18 A Latino.

19 Q What term would you use to reference a
20 Spanish-speaking person?

21 MR. CARTER: Objection.

22 A I said the constituents that were coming to
23 us were Spanish-speaking. That's the way I've
24 always referenced it. I've never indicated what
25 their background, race, or their ethnicity is.

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1 M. MARK-VIVERITO

2 Those that came to my office that were
3 Spanish-dominant and Spanish-speaking, had
4 concerns. My questions to NYCHA in the meaning
5 were constantly about Spanish-speaking,
6 Spanish-dominant residents, what are you doing to
7 address their concerns.

8 Q Understood. But my question to you is:
9 What term would you use to reference a
10 Spanish-speaking Latino person?

11 MR. CARTER: Objection.

12 MS. LIPPMAN: Objection.

13 A My question is Spanish-speaking residents.
14 So, the concerns are, Spanish-speaking --
15 Spanish-speaking, right? So, whoever speaks
16 Spanish. That was the concern and that was the
17 issue and that was the need, was to have people
18 that could communicate with the Spanish-speaking
19 residents of Mill Brook Houses.

20 Q Do you know whether the manager of the Mill
21 Brook Houses spoke Spanish?

22 A No.

23 Q Did you ask whether the manager of the Mill
24 Brook Houses spoke Spanish?

25 A I don't recall.

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1 M. MARK-VIVERITO

2 Q So, how do you know that the needs of the
3 Spanish-speaking residents of Mill Brook Houses
4 were not being met?

5 MR. CARTER: Objection.

6 MS. LIPPMAN: Objection.

7 A Because residents were coming to us.

8 Q And you did not inquire whether there was
9 any Spanish-speaking people on the staff?

10 MR. CARTER: Objection.

11 A My staff was constantly communicating with
12 NYCHA management at Mill Brook to address the
13 concerns of the residents that were coming to us.
14 We continue to have -- so, whatever engagement and
15 conversations, particularly, that's -- the issue
16 was about constituents consistently coming to us
17 and saying that there was a challenge that they
18 were having with the management office. The
19 meeting was for them to hear us out, to then
20 process that information, and address the concerns
21 that were being raised. That's what I do as an
22 advocate. That's what I do as a City Council
23 member: Representation of my constituents.

24 Q And again, the concerns were?

25 MR. CARTER: Objection.

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1 M. MARK-VIVERITO

2 MS. LIPPMAN: Objection.

3 A That the Spanish-speaking residents were
4 not getting their concerns addressed, whether it
5 was any sort of rental issue, whether it was
6 repair issues, whenever they had to interact with
7 the management office, their needs were not being
8 tended to. So, as NYCHA being a provider of
9 services to my residents and my community, my role
10 was to intervene and to request NYCHA to address
11 the concerns we were hearing and then to address
12 them.

13 Q Now, why did you associate the needs not
14 being addressed with Spanish-speaking?

15 MR. CARTER: Objection.

16 MS. LIPPMAN: Objection..

17 A Because that is what was communicated by my
18 staff, was on the front lines and interacting with
19 the residents and constituents in that district.

20 Q So, the needs that were communicated to
21 your constituents -- to your office was that there
22 was not a Spanish-speaking person? Is that
23 correct?

24 MR. CARTER: Objection.

25 MS. LIPPMAN: Objection.

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1 M. MARK-VIVERITO

2 Q Was that the need?

3 A Gloria Cruz was my liason. She had
4 interacted with management office multiple times
5 on behalf of Spanish-speaking residents in Mill
6 Brook. She was not getting her answers. She was
7 not getting -- did not feel that their concerns
8 were being addressed. That's why the meeting was
9 convened: To take it to another level and ask
10 what was NYCHA going to do to address these
11 concerns -- what are you doing to address them.

12 Q Again, just so, my apologies if I'm beating
13 a dead horse, but I need some clarity. The issue
14 that I need clarity on is: The issue that Ms.
15 Cruz was trying to ameliorate, was it the fact
16 that the Spanish-speaking residents could not
17 understand? Or were there other needs that the
18 Spanish-speaking residents had that were not being
19 met?

20 MR. CARTER: Objection.

21 MS. LIPPMAN: Objection.

22 A They were not able to communicate
23 effectively with the NYCHA management office.

24 Q And that was due to what, exactly?

25 MR. CARTER: Objection.

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1 M. MARK-VIVERITO

2 things out. It's not an effective way of
3 providing services to the constituents of New York
4 City.

5 Q. Do you know if NYCHA had other means to
6 facilitate communication between NYCHA management
7 and NYCHA constituents?

8 MR. CARTER: Objection.

9 MS. LIPPMAN: Objection.

10 A. No.

11 Q. Ms. Council Speaker, what does -- what does
12 the term "Spanish person" mean to you?

13 MR. CARTER: Objection.

14 MS. LIPPMAN: Objection.

15 A. I answered that question.

16 Q. I don't recall. If you might answer it
17 again, please?

18 MR. CARTER: Objection.

19 MS. LIPPMAN: Objection.

20 A. A Spanish person is a person from Spain.

21 Q. And what is the difference between a
22 Spanish person and a Latino person?

23 MR. CARTER: Objection.

24 MS. LIPPMAN: Objection.

25 A. A Spanish person is not a Latino person.

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1 M. MARK-VIVERITO

2 Q Okay. So, what's the difference been a
3 Spanish person and a Latino person?

4 MR. CARTER: Objection.

5 MS. LIPPMAN: Objection.

6 Q If you know.

7 A A Spanish person is a not a Latino person.
8 Spanish is, in my experience as a Latina, a
9 Spanish speaker, is usually something I reference
10 here -- it's a generational issue. People in
11 their 50's or 60's, they usually refer to Latino
12 people as "Spanish." I do not use that
13 terminology. Random people that do use the
14 terminology to identify me as a Latina, but I'm
15 not a Spanish person.

16 Q You've never used the term "Spanish person"
17 to refer to a Latino before?

18 A Never.

19 Q Would you agree that the statement, "I want
20 a Spanish manager," would include a Spanish
21 person? A person from Spain?

22 MR. CARTER: Objection.

23 MS. LIPPMAN: Objection.

24 Q Would you agree with that statement?

25 A Repeat the question.

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1 M. MARK-VIVERITO

2 Q "I want a Spanish manager." Would that
3 include a person from Spain?

4 MR. CARTER: Objection.

5 MS. LIPPMAN: Objection.

6 A I don't use -- I don't use that
7 terminology, so, whoever uses that terminology has
8 to explain to you what it means to them.

9 Q What does it mean to you?

10 A I already indicated what it means to me.

11 Q So, it's your testimony that your --
12 "Spanish" to you only includes people from Spain;
13 correct?

14 MR. CARTER: Objection.

15 MS. LIPPMAN: Objection.

16 A Yes. Yes.

17 Q Just give me one second. Ms. Council
18 Speaker, you stated that constituents made
19 complaints to your Bronx office; correct?

20 A Yes.

21 Q Okay. Do you recall -- do you recall how
22 many complaints were made about the Mill Brook
23 Houses?

24 A No.

25 Q And who would have received those

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1 M. MARK-VIVERITO

2 complaints?

3 MR. CARTER: Objection.

4 Q From your office? Who would they go to?

5 A Could be received multiple ways; primarily,
6 whoever is in the office with express intent to
7 walk-ins. Gloria was there; we had interns, other
8 staff based on the day. So, it was depending on
9 who was there.

10 Q Are you aware that the manager of the Mill
11 Brook Houses testified that she never received any
12 complaints?

13 MR. CARTER: Objection.

14 MS. LIPPMAN: Objection.

15 A Complaints from who?

16 Q From the Mill Brook Houses.

17 MS. LIPPMAN: Objection.

18 A So, if constituents the are coming to us,
19 saying they have an inability to communicate with
20 the staff at the management office, then how would
21 she receive complaints? Complaints were coming to
22 us that they had an inability to communicate
23 effectively with the management office, and we
24 were now serving as a de facto management office,
25 racking up the complaints from the constituents,

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1 **M. MARK-VIVERITO**
2 and having to express those concerns to the
3 management office; and to us, that was not the
4 role of my office. The role of my office is not
5 to serve as the management office for NYCHA.

6 Q Do you know whether there were any
7 Spanish-speaking individuals in the management
8 office of Mill Brook?

9 MR. CARTER: Objection.

10 MS. LIPPMAN: Objection.

11 A No, I don't recall.

12 Q Did you ever inquire?

13 A I would -- I would, if Gloria is telling us
14 that constituents are coming to us, Gloria is the
15 one that would interact with the management
16 office. I'm sure she would ask that question; and
17 probably, the answer was no.

18 Q Are you guessing?

19 A I'm saying the rationale of the meeting was
20 because Spanish-speaking constituents, who had no
21 other way of communicating, were not getting
22 attention at the management office.

23 Q Ms. Council Speaker, are you familiar with
24 how NYCHA -- are you familiar with how NYCHA
25 grades the performance of the different

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1 M. MARK-VIVERITO

2 call us, they could email us. They could walk in.
3 We're in the shadow of Mill Brook Houses. So,
4 people knew we were there.

5 Q Okay. So, please walk me through the
6 process, by way of example. Say they call
7 something -- about an issue they wanted resolved
8 in the Mill Brook Houses. How would that work
9 from beginning to end?

10 MR. CARTER: Objection.

11 A What do you mean?

12 Q They would ring up phone and call your
13 office?

14 A Yes.

15 Q And then what would happen?

16 MR. CARTER: Objection.

17 A They would express the issue that they had,
18 and the question, logically, would be, "well, did
19 you go to the management office? What happened?"
20 A lot of times, they said they were not able to
21 communicate; then they would continue to give the
22 complaint to us, that then we would have to
23 interact on their behalf with the management
24 office and communicate what their needs were.

25 Q Okay. So, they would give the complaint to

LUIS PONCE - 03/15/2019

1 --
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----x
5 SIBYL COLON,

6 Plaintiff,
7 Index No. 16-04540
8 v.

9 THE CITY OF NEW YORK, NEW YORK
10 CITY HOUSING AUTHORITY, NEW YORK
CITY COUNCIL SPEAKER MELISSA
11 MARK-VIVERITO, MICHAEL KELLY and
BRIAN CLARKE,

12 Defendants.

13 -----x
14
15 11:00 a.m.
16 March 15, 2019
17 48 Wall Street
New York, New York
18

19 DEPOSITION of LUIS PONCE, a Witness in the
20 above entitled matter, pursuant to Notice, before
21 Stephen J. Moore, a Registered Professional
22 Reporter, Certified Realtime Reporter and Notary
23 Public of the State of New York.

24
25

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1 LUIS PONCE

2 -----x

3 UNITED STATES DISTRICT COURT

4 SOUTHERN DISTRICT OF NEW YORK

5 -----x

6 ALLISON WILLIAMS,

7 Plaintiff,

8 Index No. 16-cv-08193

9 v.

10 THE CITY OF NEW YORK, NEW YORK
CITY HOUSING AUTHORITY, NEW YORK
11 CITY COUNCIL SPEAKER MELISSA
MARK-VIVERITO, MICHAEL KELLY and
12 BRIAN CLARKE,

13 Defendants.

14 -----x

15

16 11:00 a.m.

17 March 15, 2019

18 48 Wall Street

19 New York, New York

20

21 DEPOSITION of LUIS PONCE, a Witness in the
22 above entitled matter, pursuant to Notice, before
23 Stephen J. Moore, a Registered Professional
24 Reporter, Certified Realtime Reporter and Notary
25 Public of the State of New York.

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1 LUIS PONCE

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19 Attorneys for Defendant Melissa

20 Mark-Viverito

21 100 Church Street

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24 BY: J. CORBIN CARTER, ESQ.

25

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2	MR. FLORESTAL	6 --
3	MS. LIPPMAN	83
4		

5 EXHIBITS

6

7	PLAINTIFF - RETAINED	PAGE
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8

9	1	Board meeting minutes from	21	15
10		Wednesday, September 30, 2015		

11

12	2	CD of recordings	41	17
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1 LUIS PONCE

2 violations unit.

I think I went back to the fuel oil remediation unit and I became an assistant director in technical services, and then I became the deputy director technical services, became the director of technical services, and then senior director of technical services, and then senior vice president of operations for support services.

11 Q What year was that, what year
12 did you become senior vice president, SVP of
13 operations?

14 A Maybe 2012 or 2013.

15 Q Okay.

16 Can you tell us a little bit --
17 and that was -- I should ask, are you currently
18 employed with NYCHA?

19 A No, I am not.

20 Q Was that your last title at
21 NYCHA?

22 A Yes, it was.

23 Q So can you tell us a little bit
24 about your job responsibilities as an SVP of
25 operations?

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1 LUIS PONCE

2 A The manager of --

3 Q She was upset at what, please,
4 or reiterate?

5 A She was upset with how the
6 manager handled Spanish speaking residents.

7 Q And which manager was that,
8 Mr. Ponce?

9 A I believe it was Allison
10 Williams.

11 Q Did you ever speak to Brian
12 Clark about that meeting, the July 20th, 2015
13 meeting at Melissa Mark-Viverito's office?

14 A I did not.

15 Q At any point in time during your
16 tenure with NYCHA, did Ms. Colon ever speak to
17 you about removing Ms. Allison Williams as the
18 manager of the Millbrook Houses?

19 A Yes, we had a conversation.

20 Q And what was that conversation
21 about?

22 A So, while Brian Clark was on
23 vacation, he called me and asked me to follow
24 up on, I believe it was three items.

25 One of the items was for the ,

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1 LUIS PONCE
2 transfer of the Millbrook manager. He told me
3 he had asked Ms. Colon to work on that.

4 He asked me that he would like
5 to have that done before he returns from
6 vacation.

7 Q Did he tell you why he wanted to
8 remove her?

9 A He did not.

10 Q Was that after July 30th, 2015,
11 that the conversation between you and Brian
12 Clark occurred?

13 A I don't recall.

14 Q Okay. So are you familiar with
15 the names Richard Bernardo?

16 A Yes.

17 Q Are you familiar with the name
18 Kenya Saludin?

19 A Yes.

20 Q Did you ever have conversations
21 with Richard Bernardo and Kenya Saludin about
22 removing Allison Williams as the manager of
23 Millbrook Houses?

24 A I do not remember having a
25 conversation with them about Ms. Williams.

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1 LUIS PONCE

2 Q Did you ever inform Ms. Colon
3 that Brian's directives to remove Ms. Williams
4 as the manager of Millbrook Houses was
5 discriminatory?

6 A Sorry, can you repeat that?

7 Q Did you ever inform Ms. Colon
8 that it was your opinion that Brian's
9 directives to remove Ms. Williams as the
10 manager of Millbrook was illegal?

11 A No.

12 MS. LIPPMAN: Objection

13 Q Did you ever inform Ms. Williams
14 that Brian's directives to remove Ms. Williams
15 as a manager of Millbrook as discriminatory?

16 MR. CARTER: Did you ever inform
17 Ms. Williams or Ms. Colon? I didn't
18 catch that.

19 MR. FLORESTAL: Thank you for the
20 correction.

21 So, for the record, I'm going to
22 withdraw the last question, I'm going to
23 rephrase.

24 Q Did you ever inform Ms. Colon
25 that Brian Clark's directive to remove Ms.

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1 LUIS PONCE

2 was played as follows:)

3 MS. COLON: "I heard he was in
4 there bringing up that Spanish speaking
5 stuff today in a meeting, to the
6 manager, publicly to everybody, that's
7 illegal. Ponce,, that's illegal. And
8 everybody think I'm Spanish."

9 Q Once again, Mr. Ponce, I am
10 going to ask you if you can identify the
11 individuals in that recording?

12 A Sibyl Colon and myself.

13 Q And what are you guys talking
14 about during that snippet of time that I played
15 for you?

16 MS. LIPPMAN: Objection. Go
17 ahead.

18 A She is saying that he was
19 talking about a comment that the manager --
20 Millbrook, Ms. Williams, made at a meeting,
21 right.

22 Q But again, does she use the term
23 illegal at any point?

24 A Yes, she said that, speaking
25 about it is illegal.

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1 LUIS PONCE

2 Q Did you respond at all?

I'll play it again.

4 A Please.

7 MS. COLON: "I heard he was in
8 there bringing up that Spanish speaking
9 stuff today in a meeting, to the
10 manager, publicly to everybody, that's
11 illegal. Ponce,, that's illegal. And
12 everybody think I'm Spanish."

13 A I didn't hear myself respond.

14 MR. FLORESTAL: Let the record
15 reflect I'm going to play from 3:57 to
16 4:00.

19 MR. PONCE: "We have a process to
20 show when you are not performing.

21 MS. COLON: Right, where did it
22 come from? It's the opposite, I have
23 performed."

24 Q Did you hear that?

25 A NO.

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1 LUIS PONCE

2 And then she revealed to me that
3 they were bringing someone in from Chicago to
4 replace her.

5 Q And what was your response to
6 that?

7 A I believe I asked her was there
8 any -- did they bring any performance issues to
9 her attention about her present work? And she
10 said no.

11 MR. FLORESTAL: I'm going to play
12 5:50 to 6:05.

13 (The previously described recording
14 was played as follows:)

15 MR. PONCE: "Like you said, so
16 why hurt me? Unless you have issues
17 with me, so give me another Senior Vice
18 President, or tell me whatever you want.

19 MS. COLON: Or allow for due
20 process.

21 MR. PONCE: But there can't be
22 due process, because then you would have
23 had to do something wrong.

24 MS. COLON: Right, and I haven't
25 done anything wrong. You know it, I

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2 know it, the whole world knows it."

3 Q Did you hear that?

4 A I believe so, yes.

5 Q I will play it one more time
6 just in case, okay?

7 (The previously described recording
8 was played as follows:)

9 MR. PONCE: "Like you said, so
10 why hurt me? Unless you have issues
11 with me, so give me another Senior Vice
12 President, or tell me whatever you want.

13 MS. COLON: Or allow for due
14 process.

15 MR. PONCE: But there can't be
16 due process, because then you would have
17 had to do something wrong.

18 MS. COLON: Right, and I haven't
19 done anything wrong. You know it, I
20 know it, the whole world knows it."

21 Q Okay. Did you hear that?

22 A Yes.

23 Q Now, you used the words "due
24 process," did you not?

25 A Yes.

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2 MR. FLORESTAL: The record.

3 Q Mr. Ponce, do you have an
4 opinion as to why Sibyl Colon was demoted?

5 A I don't think -- I think she --
6 I don't know if she got the demotion or she
7 resigned before she was demoted.

8 But after she was gone, then I
9 became aware of that she was replaced by Janet
10 Abrahams, so that was the reason why she was
11 moved, in my opinion.

12 Q Are you familiar with the name
13 Octavia Hayward?

14 A Yes.

15 Q How are you familiar with the
16 name Octavia Hayward?

17 A She was one of, I believe they
18 called them regional asset managers in OPMOM,
19 she had a title in OPMOM she was a
20 supervisorOPMOM in OPMOM.

21 Q Was it aOPMOM greater or a
22 lesser title than Ms. Colon?

23 A I believe it was lesser than Ms.
24 Colon, yes.

25 Q To your knowledge, did Ms.

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2 Q Are you familiar at all with the
3 job responsibilities of Janet Abrahams'
4 position?

5 A Just based on my interactions
6 with her and what she did, yes.

7 Q Were they the same
8 responsibilities, to your knowledge, that Sibyl
9 Colon had?

10 MS. LIPPMAN: Objection.

11 A As I -- again, I forget if it
12 was vice president or senior vice president,
13 you would be higher in the organization and you
14 would have more access to the general manager,
15 or the Chair of the Authority at a director
16 level.

17 You would be reporting to a vice
18 president or a senior vice president or
19 executive vice president, depending on where
20 you were in the organization.

21 Q Just so we are clear, you are
22 describing Janet Abrahams' position, correct?

23 A The first part of it was Janet
24 Abrahams' position, because she was higher, she
25 attended higher level meetings.

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2 So, like I had discussed
3 earlier, the meeting that we had with the
4 general manager, oftentimes the directors would
5 not -- were not in that meeting, they might
6 have called in, but they weren't participating
7 in the meeting in face-to-face.

8 Senior vice president or the
9 vice president -- the vice president level
10 would be -- would have access, higher levels in
11 the Authority, and had access to approve higher
12 level of monetary amounts for budgets and for
13 contracts.

14 Q Okay.

15 MR. FLORESTAL: I am going to
16 impose a break, you are yawning.

17 MS. LIPPMAN: That sounds good.

18 MR. FLORESTAL: I want you fresh.

19 THE WITNESS: I am okay.

20 (At this point in the proceedings
21 there was a recess, after which the
22 deposition continued as follows:)

23 MR. FLORESTAL: Back on.

24 Q Now, Mr. Ponce, you did not know
25 that you were being recorded, did you?